FEDERAL REGISTER

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Washington, Friday, December 11, 1942

Regulations

TITLE 6—AGRICULTURAL CREDIT

Chapter II—Commodity Credit Corporation

[Am. 4 to 1937 CCC Cotton Form SFE]

PART 224—TERMS AND CONDITIONS OF COTTON SALES FOR EXPORT PROGRAM

REGISTRATION OF SALES, ETC.

1937 CCC Cotton Form SFE—Terms and Conditions of Cotton Sales for Export Program, issued October 3, 1941, as amended, is hereby further amended as follows:

1. Section 224.10 (h), *Registration of sales,*[1] is amended to read as follows:

(h) The terms of sales contracts filed with Commodity Credit Corporation may be amended to provide for exportation of the cotton prior to January 31, 1943, by filing with Commodity Credit Corporation certified copies of the agreement between the parties to such contracts.

2. Section 224.13, *Liquidated damages,*[2] is amended to read as follows:

§ 224.13 *Liquidated damages.* In all cases in which (a) cotton is sold by the Corporation in reliance upon registered sales for future delivery and satisfactory evidence of the exportation, prior to January 31, 1943, of an equivalent quantity of cotton in fulfilment of such sales is not filed within the prescribed time with the Corporation or (b) cotton as to which satisfactory evidence of exportation has been submitted re-enters the United States or its possessions (other than the Philippine Islands) in raw cotton form, the purchaser shall pay to the Corporation, as liquidated damages, the sum of 12½ cents per pound for each pound of such cotton: *Provided,* That the purchaser shall not be liable for liquidated damages under (b) above with respect to raw cotton re-entering the United States or its possessions (other than the Philippine Islands) under the provisions of the Proclamation of the President of the United States, No. 2544, dated March 31, 1942.

3. These amendments shall be applicable to all cotton purchased under the Cotton Sales for Export Program.

(Sec. 302 (a), 52 Stat. 43, sec. 381 (c), 52 Stat. 67; 7 U.S.C. 1302 (a), 1381 (c))

Issued this 21st day of November 1942, at Washington, D. C.

[SEAL] J. B. HUTSON, *President.*

ATTEST:

FRANK L. WALSTON, *Secretary.*

[F. R. Doc. 42-13093; Filed, December 10, 1942; 11:06 a. m.]

[1] 6 F.R. 5615, 5616, 7 F.R. 4810, 7419.
[2] 6 F.R. 5616; 7 F.R. 4810, 7419.

TITLE 7—AGRICULTURE

Chapter III—Bureau of Entomology and Plant Quarantine

[B.E.P.Q. 385, Third Revision—Quarantine 38]

PART 301—DOMESTIC QUARANTINE NOTICES

SUBPART—BLACK STEM RUST

Introductory note. Under this revision of circular B.E.P.Q. 385, two species of barberries, *Berberis aemulans* and *B. dictyophylla* var. *albicaulis,* have been removed from the list of species which may be shipped into or between the protected States, inasmuch as recent tests have shown that both *aemulans* and *dictyophylla* are susceptible to the black stem rust. *B. bealei* (Mahonia) has been added to the permitted list. The range of this species for satisfactory cultivation, however, is practically limited to the area south of the protected States.

Other modifications in the circular are concerned only with improved nomenclature, *B. thunbergii pluriflora* having been eliminated from paragraph (a) for the reason that it is not in reality a different variety of Japanese barberry; *B. thunbergii pluriflora erecta* has been changed to *B. thunbergi f. erecta;* and *B. diversifolia* has been eliminated from

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FEDERAL REGISTER

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paragraph (b) because it is a synonym for *Mahonia aquifolium.*

§ 301.38a *Administrative instructions; classification of barberry and mahonia plants.* The rules and regulations supplemental to § 301.38 [Notice of Quarantine No. 38, revised, on account of the black-stem rust, effective September 1, 1937] provide that no plants, cuttings, stocks, scions, buds, fruits, seeds, or other plant parts capable of propagation, of the genera *Berberis, Mahonia,* or *Mahoberberis,* "shall be moved or allowed to be moved interstate from any State of the continental United States or from the District of Columbia into any of the protected States, namely, Colorado, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, Pennsylvania, South Dakota, Virginia, West Virginia, Wisconsin, and Wyoming, nor from any one of said protected States into any other protected State, unless a permit shall have been issued therefor by the United States Department of Agriculture, except that no restrictions are placed by these regulations on the interstate movement either of Japanese barberry (*Berberis thunbergii*) or any of its rust-resistant varieties, or of cuttings (without roots) of *Mahonia* shipped for decorative purposes and not for propagation." (See paragraph (a) of regulation 2 (§ 301.38–2 (a)).)

The protected States referred to under paragraph (b) are the 17 barberry eradication States named in the regulation quoted above. Barberry and mahonia plants other than those listed in paragraphs (a) and (b) following may not be shipped interstate into any of the protected States.

(a) *Barberries which may be shipped interstate to any State without permit or restriction.*

Berberis thunbergi.
Berberis thunbergi var. atropurpurea.
Berberis thunbergi var. maximowiczi.
Berberis thunbergi var. minor.
Berberis thunbergi f. erecta.

(b) *Barberries which may be shipped into or between protected States under Federal permit.*

Berberis aquifolium (Mahonia).
Berberis bealei (Mahonia).
Berberis buaniana.
Berberis buxifolia.
Berberis candidula.
Berberis chenaulti (hybrid).
Berberis circumserrata.
Berberis concinna.
Berberis darwini.
Berberis edgeworthiana.
Berberis gagnepaini.
Berberis gilgiana.
Berberis julianae.
Berberis koreana.
Berberis mentorensis.
Berberis nervosa (Mahonia).
Berberis potanini.
Berberis repens (Mahonia).
Berberis sanguinea.
Berberis sargentiana.
Berberis stenophylla (hybrid).
Berberis triacanthophora.
Berberis verruculosa.

Application for permits should be addressed to the Division of Domestic Plant Quarantines, Bureau of Entomology and Plant Quarantine, United States Department of Agriculture, Washington, D. C.

Effective date: December 15, 1942.

(7 CFR § 301.38–2; sec. 8, 39 Stat. 1165, 44 Stat. 250; 7 U.S.C. 161)

Done at Washington, D. C., this 3d day of December 1942.

[SEAL] P. N. ANNAND, *Chief.*

[F. R. Doc. 42–13091; Filed, December 10, 1942; 11:06 a. m.]

TITLE 12—BANKS AND BANKING

Chapter III—Federal Deposit Insurance Corporation

PART 305—RECOGNITION OF DEPOSIT OWNERSHIP NOT ON BANK RECORDS

SALARY DEDUCTIONS FOR BOND PURCHASES, ETC.

Resolution authorizing waiver of disclosure of ownership on bank records for deposits of employer representing salary deductions of employees held for purchase of war savings bonds or stamps.

§ 305.6 *Deposits of employer representing salary deductions of employees held for purchase of war savings bonds or stamps.* The owner of any portion of a deposit representing funds of employees held by an employer for the purchase of war savings bonds or stamps and appearing on the records of a closed bank in an appropriately designated special account under the name of the employer will be recognized for all purposes of claim for insured deposits to the same extent as if his (or her) name and interest were disclosed on the records of the bank: *Provided,* That the name and interest of such owner in the deposit are disclosed on the records maintained by such employer: *And, provided further,* That such records have been maintained in good faith and in the regular course of business. (U.S.C., 1940 Ed., title 12, sec. 264 (m) (3)) [Adopted December 5, 1942]

[SEAL] FEDERAL DEPOSIT INSURANCE CORPORATION.
E. F. DOWNEY, *Secretary.*

[F. R. Doc. 42–13050; Filed, December 9, 1942; 12:56 p. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Bureau of Internal Revenue

Subchapter A—Income and Excess-Profits Taxes

[T. D. 5194]

PART 19—INCOME TAX UNDER THE INTERNAL REVENUE CODE

ALIMONY, SEPARATE MAINTENANCE PAYMENTS, ETC.

Regulations 103 amended to conform to section 110 and section 120 of the Revenue Act of 1942.

In order to conform Regulations 103 (Part 19, Title 26, Code of Federal Regulations, 1940 Sup.), relating to the income tax under the Internal Revenue Code, to section 110 (relating to transfers of life insurance contracts) and to section 120 (relating to alimony and separate maintenance payments) of the Revenue Act of 1942 (Public Law 753, Seventy-seventh Congress), approved October 21, 1942, such regulations are amended as follows:

PARAGRAPH 1. Section 19.22 (a)–12 is amended by striking out "19.22 (b) (2)–2" and inserting in lieu thereof "19.22 (b) (2) (A)–2".

PAR. 2. Section 19.22 (b)–1 is amended by changing the fifth sentence thereof to read as follows:

As to other items not to be included in gross income, see sections 22 (k), 112, 119, and 171 and Supplements G, H, I, and J (sections 201 to 252, inclusive).

PAR. 3. Section 19.22 (b) (1)–1 is amended as follows:

(A) By changing the first sentence thereof to read as follows:

The proceeds of life insurance policies, paid by reason of the death of an insured to his estate or to any beneficiary (individual, partnership, or corporation, but not a transferee for valuable consideration (other than a transferee to which the next to the last sentence of section 22 (b) (2) (A) applies) or a spouse to whom such payments are income under section 22 (k)), directly or in trust, are excluded from the gross income of the beneficiary.

(B) By inserting at the end of subsection (b) thereof the following new paragraph:

If the proceeds are payable in installments for a taxable year beginning after December 31, 1941 to a spouse who was divorced or legally separated from the insured under a court decree, such proceeds are to be excluded from the income of such spouse to the extent provided in the preceding paragraph only if not required to be included in her gross income under section 22 (k), relating to alimony income. Thus, if under the terms of a divorce decree, an insurance policy upon the life of the husband is to be purchased by him to provide a principal sum of $10,000 payable upon his death in ten annual installments, with interest, to his divorced wife, the full amount of such installments received by the wife, including the interest, is to be included in her income. See further section 22 (b) (2), section 22 (k), § 19.22 (b) (2) (A)–4 and § 19.22 (k)–1.

PAR. 4. There is inserted immediately preceding § 19.22 (b) (2)–1 the following:

SEC. 110. TRANSFERS OF LIFE INSURANCE CONTRACTS, ETC. (Revenue Act of 1942, Title I.)

(a) *Proceeds exempt to transferee.* Section 22 (b) (2) (relating to annuities, etc.) is amended by inserting a period and the following new sentence before the semicolon at the end thereof: "The preceding sentence shall not apply in the case of such a transfer if such contract or interest therein has a basis for determining gain or loss in the hands of a transferee determined in whole or in part by reference to such basis of such contract or interest therein in the hands of the transferor.

(b) *Taxable years to which amendment applicable.* The amendment made by this section shall be applicable with respect to taxable years beginning after December 31, 1940.

SEC. 120. ALIMONY AND SEPARATE MAINTENANCE PAYMENTS. (Revenue Act of 1942, Title I.)

* * * * *

(d) *Annuities, etc.* Section 22 (b) (2) (relating to payments under annuity, etc., contracts) is amended by striking out the heading and inserting in lieu thereof

"(2) Annuities, etc.

"(A) In general."

and by inserting before the semicolon at the end of such subparagraph (A) a period and the following:

This subparagraph and paragraph (1) shall not apply with respect to so much of a payment under a life insurance, endowment, or annuity contract, or any interest therein, as, under section 22 (k), is includible in gross income.

* * * * *

(g) *Taxable years to which amendments applicable.* The amendments made by this section shall be applicable only with respect to taxable years beginning after December 31, 1941; except that if the first taxable year beginning after December 31, 1941, of the husband does not begin on the same day as the first taxable year beginning after December 31, 1941, of the wife, such amendments shall first become applicable in the case of the husband on the first day of the wife's first taxable year beginning after December 31, 1941, regardless of the taxable year of the husband in which such day falls.

PAR. 5. Section 19.22 (b) (2)–1 is renumbered § 19.22 (b) (2) (A)–1 and is further amended by striking out "and amounts received as annuities" and inserting in lieu thereof "amounts received as annuities, and amounts of periodic payments included in gross income under section 22 (k)".

PAR. 6. Section 19.22 (b) (2)–2 is renumbered § 19.22 (b) (2) (A)–2 and is further amended by inserting in the second sentence thereof, after "an annuity" the following: "(where the whole payment is not required to be included in income under section 22 (k))".

PAR. 7. There is inserted immediately following § 19.22 (b) (2) (A)–2 the following new sections:

§ 19.22 (b) (2) (A)–3 *Transfers of life insurance, endowment, or annuity contracts.* For taxable years beginning prior to January 1, 1941, in the case of a transfer for valuable consideration of a life insurance, endowment, or annuity contract, only the actual value of the consideration given for such transfer and the amount of the premiums and sums subsequently paid by the transferor shall be excluded from gross income upon receipt of payments under the insurance, endowment, or annuity contract. For taxable years beginning after December 31, 1940, proceeds of a life insurance, endowment, or annuity contract are exempt from taxation if such contract or interest therein has a basis for determining gain or loss in the hands of the transferee determined in whole or in part by reference to such basis of such contract or interest therein in the hands of the transferor. Thus, where a corporation acquires a life insurance policy from a predecessor corporation in a tax-free reorganization, the proceeds received under the policy will be exempt from taxation, because the basis is determined with reference to the basis in the hands of a transferor.

The following example will illustrate the practical operation of the provisions of this section:

Example. The A Corporation procures a $1,000 life insurance policy on X, one of its officers, naming the A Corporation as beneficiary. If X dies during the time the policy is held by the corporation, the proceeds of the policy would be tax-free to the corporation. If the A Corporation transfers the policy to the B Corporation in a tax-free reorganization, the proceeds in the hands of the B Corporation for taxable years beginning after December 31, 1940 would be exempt under section 22 (b) (1) from taxation on account of the next to the last sentence of section 22 (b) (2) (A) as added by the Revenue Act of 1942.

§ 19.22 (b) (2) (A)–4 *Annuity, etc., payments in discharge of alimony obligation.* The full amount of any periodic payment received under a life insurance, endowment, or annuity contract in a taxable year beginning after December 31, 1941 by a spouse or former spouse is required to be included in her gross income if certain conditions specified in section 22 (k) exist. See § 19.22 (k)–1. Paragraphs (1) and (2) (A) of section 22 (b) do not apply (except the last sentence of section 22 (b) (2) (A)) with respect to so much of a payment as under section 22 (k) is includible in gross income. For example, upon the divorce of a husband and wife, the decree may require the husband to provide the wife with an annuity of $2,000 for her life. The wife, being desirous of a greater assured income, may pay with the husband to an insurance company a consideration, which, when added to the amount paid by the husband, purchases an annuity paying $3,000. For each taxable year beginning after December 31, 1941, $2,000 is to be included in her income under section 22 (k) and such portion of $1,000 is to be included in her income as is required under § 19.22 (b) (2) (A)–2 on the basis of the consideration paid by her to the company.

PAR. 8. Section 19.22 (b) (3)–1 is amended by striking out the part thereof reading "Neither alimony nor an allowance based on a separation agreement is taxable income. (See § 19.24–1.)".

PAR. 9. There is inserted immediately following subsection (j) of section 22,

which follows § 19.22 (d)-6, the following:

SEC. 120. ALIMONY AND SEPARATE MAINTENANCE PAYMENTS. (Revenue Act of 1942, Title I.)

(a) *Amount includible in gross income.* Section 22 (relating to definition of gross income) is amended by inserting at the end thereof the following new subsection:

(k) *Alimony, etc., income.* In the case of a wife who is divorced or legally separated from her husband under a decree of divorce or of separate maintenance, periodic payments (whether or not made at regular intervals) received subsequent to such decree in discharge of, or attributable to property transferred (in trust or otherwise) in discharge of, a legal obligation which, because of the marital or family relationship, is imposed upon or incurred by such husband under such decree or under a written instrument incident to such divorce or separation shall be includible in the gross income of such wife, and such amounts received as are attributable to property so transferred shall not be includible in the gross income of such husband. This subsection shall not apply to that part of any such periodic payment which the terms of the decree or written instrument fix, in terms of an amount of money or a portion of the payment, as a sum which is payable for the support of minor children of such husband. In case any such periodic payment is less than the amount specified in the decree or written instrument, for the purpose of applying the preceding sentence, such payment, to the extent of such sum payable for such support, shall be considered a payment for such support. Installment payments discharging a part of an obligation the principal sum of which is, in terms of money or property, specified in the decree or instrument shall not be considered periodic payments for the purposes of this subsection; except that an installment payment shall be considered a periodic payment for the purposes of this subsection if such principal sum, by the terms of the decree or instrument, may be or is to be paid within a period ending more than 10 years from the date of such decree or instrument, but only to the extent that such installment payment for the taxable year of the wife (or if more than one such installment payment for such taxable year is received during such taxable year, the aggregate of such installment payments) does not exceed 10 per centum of such principal sum. For the purposes of the preceding sentence, the portion of a payment of the principal sum which is allocable to a period after the taxable year of the wife in which it is received shall be considered an installment payment for the taxable year in which it is received. (In cases where such periodic payments are attributable to property of an estate or property held in trust, see section 171 (b).)

* * * * *

(g) *Taxable Years to Which Amendments Applicable.*—The amendments made by this section shall be applicable only with respect to taxable years beginning after December 31, 1941; except that if the first taxable year beginning after December 31, 1941, of the husband does not begin on the same day as the first taxable year beginning after December 31, 1941, of the wife, such amendments shall first become applicable in the case of the husband on the first day of the wife's first taxable year beginning after December 31, 1941, regardless of the taxable year of the husband in which such day falls.

§ 19.22 (k)-1 *Alimony and separate maintenance payments—Income to former wife*—(a) *In general.* Section 22 (k) provides rules for treatment in certain cases of payments in the nature of or in lieu of alimony or an allowance for support as between spouses who are divorced or legally separated under a court order or decree. Section 22 (k) applies only to such payments actually made or actually received on and after the first day of the first taxable year of the payee spouse beginning after December 31, 1941. For convenience, the payee spouse will hereafter in this section of the regulations be referred to as the "wife" and the spouse from whom she is divorced or legally separated as the "husband". See section 3797 (a) (17).

In general, section 22 (k) requires the inclusion in the gross income of the wife of periodic payments (whether or not made at regular intervals) received by her after the decree of divorce or of separate maintenance. Such periodic payments may be received from either of the two following sources:

(1) In discharge of a legal obligation which, because of the marital or family relationship, is imposed upon or incurred by the husband, or

(2) Attributable to property transferred (in trust or otherwise) in discharge of a legal obligation which, because of the marital or family relationship, is imposed upon or incurred by the husband.

The obligation of the husband must be imposed upon him or assumed by him (or made specific) under either of the following:

(1) A court order or decree divorcing or legally separating the husband and wife, or

(2) A written instrument incident to such divorce or legal separation.

The periodic payments received by the wife attributable to property so transferred and includible in her income are not to be included in the gross income of the husband. See also § 19.171-1 in cases where such periodic payments are attributable to property held in trust.

The purpose and effect of section 22 (k) may be illustrated, in general, by the following examples in which it is assumed that the husband and wife make their income tax returns on the calendar year basis:

Example (1). W sues H for divorce in 1942. The court awards W temporary alimony of $25 a week pending the final decree. On September 1, 1942 the court grants W a divorce and awards her $200 a month permanent alimony. No part of the $25 a week temporary alimony received prior to the decree is includible in W's income under section 22 (k), but the $200 a month received during the balance of 1942 by W is includible in her income for 1942. Under section 23 (u), H is entitled to deduct such $200 payments from his income.

Example (2). W files suit for divorce from H. In consideration of W's promise to relinquish all marital rights and not to make public H's financial affairs, H makes a legally binding promise in writing to W to pay to her $200 a month if a final decree of divorce is granted without any provision for alimony. Accordingly, W does not request alimony and no provision for alimony is made under a final decree of divorce entered prior to 1942. During 1942, H pays W $200 a month, pursuant to the promise. The $2,400 thus received by W is includible in her gross income under the provisions of section 22 (k). Under section 23 (u), H is entitled to a deduction of $2,400 from his gross income.

Example (3). H and W enter into an antenuptial agreement, under which, in consideration of W's relinquishment of all marital rights (including dower) in H's property, and, in order to provide for W's support and household expenses, H promises to pay W $200 a month for her life. Ten years after their marriage, W sues H for divorce but does not ask for or obtain alimony because of the provision already made for her support in the antenuptial agreement. Likewise, the divorce decree is silent as to such agreement and H's obligation to support W. Section 22 (k) does not apply to such a case. If, however, the decree were modified so as to refer to the antenuptial agreement, or if, at the time of the divorce, reference had been made to the antenuptial agreement in the court's decree or in a written instrument incident to the divorce, section 22 (k) would require the inclusion of the payments received by W after the decree in her income for taxable years beginning after December 31, 1941. (As to including such payments in the wife's income, if made by a trust created under the antenuptial agreement, regardless of whether referred to in the decree or a later instrument, see §19.171-1.)

Section 22 (k) applies only where the legal obligation being discharged arises out of the family or marital relationship in recognition of the general obligation to support, which is made specific by the instrument or decree. Thus, section 22 (k) does not apply to that part of any periodic payment which is attributable to the repayment by the husband of, for example, a *bona fide* loan previously made to him by the wife, the satisfaction of which is specified in the divorce decree as a part of the general settlement between the husband and wife.

Periodic payments are includible in the wife's income under section 22 (k) only for the taxable year in which received by her. As to such amounts, the wife is to be treated as if she makes her income tax returns on the cash receipts and disbursements basis, regardless of whether she normally makes such returns on the accrual basis. However, if the periodic payments described in section 22 (k) are to be made by an estate or trust, such periodic payments are to be included in the wife's taxable year in which they are includible according to the rules as to income of estates and trusts provided in sections 162, 164 and 171 (b), whether or not such payments are made out of the income of such estates or trusts.

(b) *Alimony income attributable to property.* The full amount of periodic payments received under the circumstances described in section 22 (k) is required to be included in the gross income of the recipient whether such amounts are derived, in whole or in part, from income received or accrued by the

source to which such payments are attributable. Thus, it matters not that such payments are attributable to property in trust, to life insurance, endowment, or annuity contracts, or to any other interest in property, or are paid directly or indirectly by the obligor husband from his income or capital. For example, if in order to meet an alimony obligation of $500 a month, the husband purchases or assigns for the benefit of his former wife a commercial annuity contract paying such amount, the full $500 a month received by the wife is includible in her income, and no part of such amount is includible in the husband's income or deductible by him. See section 22 (b) (2) (A) and § 19.22 (b) (2) (A)–4. Likewise, if property is transferred by the husband, subject to an annual charge of $5,000, payable to his former wife in discharge of his alimony obligation under the divorce decree, the $5,000 received annually is, under section 22 (k), includible in the wife's income, regardless of whether such amount is paid out of income or principal of the property.

The same rule applies to periodic payments attributable to property in trust. The full amount of periodic payments to which section 22 (k) applies is includible in the wife's income, regardless of whether such payments are made out of trust income. This rule applies even though under the law prior to the enactment of the Revenue Act of 1942 only the income of a trust for the benefit of the divorced wife was taxable to her. Such periodic payments are to be included in the wife's income under section 22 (k) and are to be excluded from the husband's income, even though the income of the trust would otherwise be includible in his income under section 22 (a), section 166, section 167 or any other section of the Code or these regulations. As to periodic payments received by a former wife attributable to property in trust in cases to which section 22 (k) does not apply because the husband's obligation is not specified in the decree or an instrument incident thereto, see section 171 (a) and § 19.171–1.

Section 22 (k) does not apply to that part of any periodic payment attributable to that portion of any interest in property transferred in discharge of the husband's obligation under the decree or instrument incident thereto, which interest originally belonged to the wife. It will apply, however, if she received such interest from her husband in contemplation of or as an incident to the divorce or separation without adequate and full consideration in money or money's worth, other than the release of the husband or his property from marital obligations. An example of the first rule is a case where the husband and wife transfer securities, which were owned by them jointly, in trust to pay an annuity to the wife. In this case, the full amount of that part of the annuity received by the wife in discharge of the husband's obligation under the decree, or instrument incident thereto, is taxable to her under section 22 (k), while that portion of the annuity attributable to the wife's interest in the securities so transferred is taxable to her only to the extent it is out of trust income, as provided in section 162. If, however, the husband's transfer of an interest in his property to his wife, preliminary to a transfer of such property in discharge of his obligation, is made in an attempt to avoid the application of section 22 (k) to part of such payments received by his wife, such transfers will be considered as a part of the same transfer by the husband of his property in discharge of his obligation. In such a case, section 22 (k) will be applied to the full amount received by the wife. As to periodic payments received under a joint purchase of a commercial annuity contract, see § 19.22 (b) (2) (A)–4.

(c) *Alimony installment payments.* In general, installment payments discharging a part of an obligation the principal sum of which is, in terms of money or property specified in the decree of divorce or legal separation, or in an instrument incident thereto, are not considered "periodic payments" and therefore are not to be included under section 22 (k) in the wife's income. An exception to this general rule is provided, however, in cases where such principal sum, by the terms of the decree or such instrument, may be or is to be paid within a period ending more than 10 years from the date of such decree or instrument. In such cases, the installment payment is considered a periodic payment for the purposes of section 22 (k) but only to the extent that the installment payment, or sum of the installment payments, received during the wife's taxable year does not exceed 10 percent of the principal sum. This 10 percent limitation applies to installment payments made in advance but does not apply to delinquent installment payments for a prior taxable year of the wife made during her taxable year.

The rule as to installment payments may be illustrated by the following examples:

Example (1). Under the terms of a divorce decree, H is to pay W a gross sum of $100,000 in four annual installments. No part of the $100,000 is includible in W's income under section 22 (k) nor deductible by H.

Example (2). A divorce decree in 1940 provides that H is to pay W $20,000 each year for the next 5 years, beginning with the date of the decree and then $5,000 each year for the next 10 years. Assuming the wife makes her returns on the calendar year basis, each payment received in 1942, 1943 and 1944 is a periodic payment under section 22 (k), but only to the extent of 10 percent of the principal sum of $150,000. Thus for such taxable years, only $15,000 of the $20,000 received is includible under section 22 (k) in the wife's income and is deductible by the husband under section 23 (u). For the years 1945–1954, inclusive, the full $5,000 received each year by the wife is includible in her income and is deductible from the husband's income.

Example (3). Under the terms of a separation agreement incident to divorce granted in December 1940, H agrees to pay W $500 on the first day of each month, beginning with the month after the decree, for 12 years. W makes her income tax returns on the calendar year basis while H makes his returns on the basis of the fiscal year ending June 30. H makes the promised payments in 1941 and 1942 and, in addition, on December 31, 1942, pays W $1,500 as an advance payment of installments for the next three months. In the calendar year 1943, H makes no payments at all because of financial straits. On January 1, 1944, H inherits $15,000, which he immediately pays to W in satisfaction of not only his back alimony installments for the last 9 months of 1943 but also his alimony installments for the next 21 months. The results as to H and W are as follows:

As to W. In the calendar year 1941, W received $6,000, none of which is includible in her gross income. In the calendar year 1942, W received $7,500. Since 10 percent of $72,000 (the principal sum) is $7,200, only $7,200 of the $7,500 so received is includible in her income for 1942. For 1943, nothing is includible in her income under section 22 (k). In 1944, W received $15,000. Of this amount, $4,500 is in payment of back installments and, therefore, is includible without limitation in her income for 1944. Of the balance of $10,500, only $7,200 is includible in her income for 1944.

As to H. For the taxable year ended June 30, 1941, H paid $3,000, none of which is deductible. For the taxable year ended June 30, 1942, H paid $6,000, of which only $3,000 is deductible by H since only that much of the $6,000 was paid in the wife's first taxable year beginning after December 31, 1941. In the taxable year ended June 30, 1943, H paid W $4,500, which, not being in excess of 10 percent of the principal sum, is deductible for such year. In his taxable year ended June 30, 1944, H paid $15,000, of which $11,700 (the sum of $4,500 and $7,200) is deductible.

(d) *Payments for support of minor children.* Section 22 (k) does not apply to that part of any periodic payment which, by the terms of the decree or the written instrument under section 22 (k), is specifically designated as a sum payable for the support of minor children of the husband. The statute prescribes the treatment in cases where an amount or portion is so fixed but the amount of any periodic payment is less than the amount of the periodic payment specified to be made. In such cases, to the extent of the amount which would be payable for the support of such children out of the originally specified periodic payment, such periodic payment is considered a payment for such support. For example, if the husband is by terms of the decree required to pay $200 a month to his divorced wife, $100 of which is designated by the decree to be for the support of their minor children, and the husband pays only $150 to his wife, $100 is nevertheless considered to be a payment by the husband for the support of the children. If, however, the periodic payments are received by the wife for the support and maintenance of herself and of minor children of the husband without such specific designation of the portion for the support of such children, then the whole of such amounts

is includible in the income of the wife as provided in section 22 (k). Except in cases of a designated amount or portion for the support of the husband's minor children, periodic payments described in section 22 (k) received by the wife for herself and any other person or persons are includible in whole in the wife's income, whether or not the amount or portion for such other person or persons is designated. As to treatment of such amounts with respect to credit for dependents and head of family exemption, see sections 25 (b) (2) (A) and 401 (a) (2) and sections 19.25–4 and 19.25–6.

PAR. 10. There is inserted immediately following section 23 (t), as added by Treasury Decision 5016, the following:

SEC. 120. ALIMONY AND SEPARATE MAINTENANCE PAYMENTS (Revenue Act of 1942, Title I.)

* * * * *

(b) *Deductions for amounts paid.* Section 23 (relating to deductions from gross income) is amended by inserting at the end thereof the following new subsection:

(u) *Alimony, etc., payments.* In the case of a husband described in section 22 (k), amounts includible under section 22 (k) in the gross income of his wife, payment of which is made within the husband's taxable year. If the amount of any such payment is, under section 22 (k) or section 171, stated to be not includible in such husband's gross income, no deduction shall be allowed with respect to such payment under this subsection.

* * * * *

(g) *Taxable Years to Which Amendments Applicable.* The amendments made by this section shall be applicable only with respect to taxable years beginning after December 31, 1941; except that if the first taxable year beginning after December 31, 1941, of the husband does not begin on the same day as the first taxable year beginning after December 31, 1941, of the wife, such amendments shall first become applicable in the case of the husband on the first day of the wife's first taxable year beginning after December 31, 1941, regardless of the taxable year of the husband in which such day falls.

§ 19.23 (u)–1 *Periodic alimony payments.* A deduction is allowable under section 23 (u) with respect to periodic payments in the nature of, or in lieu of, alimony or an allowance for support actually paid by the taxpayer during his taxable year and required to be included in the income of the payee wife or former wife, as the case may be, under section 22 (k). As to the amounts required to be included in the income of the wife or former wife, as the case may be, see § 19.22 (k)–1. (For definition of husband and wife in such cases, see section 3797 (a) (17).)

The deduction is allowed only for such amounts as are actually paid on or after January 1, 1942 in a taxable year of the wife or former wife beginning after December 31, 1941. For this purpose, the taxpayer is treated as if he makes his income tax returns on the cash receipts and disbursements basis, regardless of the method of accounting actually employed by him in making such returns.

The deduction under section 23 (u) is allowed only to the obligor spouse. It is not allowed to an estate, trust, corporation or any other person who may pay the alimony obligation of such obligor spouse. The obligor spouse, however, is not allowed a deduction for any periodic payment includible under section 22 (k) in the income of the wife or former wife, as the case may be, which payment is attributable to property transferred in discharge of his obligation and which, under section 22 (k) or section 171 is stated not to be includible in his gross income.

The following examples illustrate cases in which a deduction is or is not allowed under section 23 (u):

Example (1). Pursuant to the terms of a decree of divorce, H, in 1940, transfers securities valued at $100,000 in trust for the benefit of W, which fully discharges all his obligations to W. Thereafter, in 1940 and 1941, the income of the trust is taxable to W and is not included in H's income. For 1942 and thereafter, when the periodic payments made by the trust to W are required to be included in W's income under section 22 (k), such payments are stated in section 22 (k) not to be includible in H's income and under section 23 (u) are not deductible from his income.

Example (2). A decree of divorce obtained by W from H incorporated a previous agreement of H to establish a trust, the trustees of which were instructed to pay W $5,000 a year for her life. The court retained jurisdiction to order H to provide further payments if necessary for the support of W. In 1942 the trustees paid to W $4,000 from the income of the trust and $1,000 from the corpus of the trust. Under the provisions of sections 22 (k) and 171 (b), W will include $5,000 in her income for 1942. (The trustees will deduct $4,000 from the income of the trust under section 162.) H will not include any part of the $5,000 in his income nor take a deduction therefor. If H had paid the $1,000 to W, rather than allowing the trustees to pay it out of corpus, he would have been entitled to a deduction for $1,000 under the provisions of section 23 (u).

For other examples, see § 19.22 (k)–1.

PAR. 11. Section 19.24–1 is amended by striking out the sixth sentence and parenthetical clause following it and inserting in lieu thereof the following sentences:

Amounts paid as damages for breach of promise to marry, attorney's fees and other costs of suit to recover such damages, and attorney's fees paid in a suit for separation are not deductible from gross income. Amounts paid as alimony or allowance for support upon divorce or separation are not deductible except as provided in section 23 (u).

PAR. 12. There is inserted immediately preceding § 19.25–1 the following:

SEC. 120. ALIMONY AND SEPARATE MAINTENANCE PAYMENTS. (Revenue Act of 1942, Title I.)

* * * * *

(e) *Credit for dependents*—(1) *Credit for normal tax and surtax.* Section 25 (b) (2) (A) (relating to credit for dependents) is amended by inserting at the end thereof the following: A payment to a wife which is includible under section 22 (k) or section 171 in the gross income of such wife shall not be considered a payment by her husband for the support of any dependent.

(2) *Credit for optional tax under Supplement T.* For credit for dependents in case of optional tax, see amendment made by section 104 of this Act.

* * * * *

(g) *Taxable years to which amendments applicable.* The amendments made by this section shall be applicable only with respect to taxable years beginning after December 31, 1941; except that if the first taxable year beginning after December 31, 1941, of the husband does not begin on the same day as the first taxable year beginning after December 31, 1941, of the wife, such amendments shall first become applicable in the case of the husband on the first day of the wife's first taxable year beginning after December 31, 1941, regardless of the taxable year of the husband in which such day falls.

PAR. 13. Section 19.25–4 is amended by inserting after the first sentence thereof the following new sentence:

In the case of spouses who are divorced or legally separated under a decree of divorce or of separate maintenance, periodic payments (in the nature of, or in lieu of, alimony or an allowance for support) received by one spouse which she is required under section 22 (k) or section 171 (a) to include in her gross income and which she uses for support of dependents are considered payments by her for such support and not payments by the other spouse for support of any person.

PAR. 14. Section 19.25–6, as amended by Treasury Decision 5086, is amended by inserting, at the end of the second paragraph thereof, the following new sentence:

In the case of spouses who are divorced or legally separated under a decree of divorce or of separate maintenance, payments (in the nature of, or in lieu of, alimony or an allowance for support) received by one spouse which she is required under section 22 (k) or section 171 (a) to include in her gross income and which she uses for support of dependents are considered payments by her for such support and not payments by the other spouse for support of any person.

PAR. 15. Section 19.147–1, as amended by Treasury Decision 5086, is amended by striking out, in the second paragraph thereof, "19.22 (b) (2)–1, and 19.22 (b) (2)–2" and by inserting in lieu thereof "19.22 (b) (2) (A)–1, and 19.22 (b) (2) (A)–2".

PAR. 16. Section 19.161–1 is amended as follows:

(A) By striking from the first sentence "170" and inserting in lieu thereof "171".

(B) By inserting, immediately preceding the last sentence (the cross reference) in subsection (a), the following sentences:

So-called alimony trusts to which section 22 (k) or section 171 applies may be of a type to which the provisions of sections 161, 162, and 163 also apply, or of a type which is excluded from the provisions of sections 161, 162, and 163. Except to the extent that section 22 (k) or section 171 governs the taxability of amounts paid, credited or to be distributed attributable to trust property, the treatment of such trusts under sections

161, 162, and 163 or under sections 166 and 167 is not affected by section 22 (k) or section 171.

PAR. 17. Section 19.162–1 is amended by striking out the period and the cross reference in parentheses at the end of the sixth paragraph thereof (not counting as paragraphs the divisions designated (1), (2) and (3) following the colon in the second paragraph) and by inserting in lieu thereof the following: ", except in cases to which section 22 (k) or section 171 applies. See §§ 19.-167–1, 19.171–1, and 19.171–2.)".

PAR. 18. Section 19.166–1 is amended as follows:

(A) By inserting, immediately preceding the period at the end of the first sentence thereof, the following: ", except as provided in section 22 (k) and section 171".

(B) By inserting, immediately preceding "regardless" in the fourth sentence of subsection (b), the following: "(except as provided in section 22 (k) or section 171)".

(C) By inserting, immediately following "corpus", the first time it appears in subsection (c), the following: ", except as provided in sections 22 (k), 23 (u), and 171,".

PAR. 19. Section 19.167–1 is amended as follows:

(A) By inserting, immediately following "another" in the second sentence of subsection (b), the following: "(except a wife to whom such income is taxable under section 22 (k) or section 171)".

(B) By inserting, immediately preceding "regardless" in the third paragraph of subsection (b), the following: "(except as provided in section 22 (k) or section 171)".

(C) By inserting, immediately preceding the period at the end of the fourth paragraph of subsection (b), the following: ", except where it is expressly required by section 22 (k) or section 171 to be included in the gross income of a wife or former wife".

PAR. 20. There is inserted immediately following section 19.170–1, the following:

SEC. 120. ALIMONY AND SEPARATE MAINTENANCE PAYMENTS. (Revenue Act of 1942, Title I.)

* * * * *

(c) *Income from trusts.* Supplement E of Chapter 1 is amended by inserting at the end thereof the following new section:

SEC. 171. INCOME OF AN ESTATE OR TRUST IN CASE OF DIVORCE, ETC.

(a) *Inclusion in gross income.* There shall be included in the gross income of a wife who is divorced or legally separated under a decree of divorce or of separate maintenance the amount of the income of any trust which such wife is entitled to receive and which, except for the provisions of this section, would be includible in the gross income of her husband, and such amount shall not, despite section 166, section 167, or any other provision of this chapter, be includible in the gross income of such husband. This subsection shall not apply to that part of any such income of the trust which the terms of the decree or trust instrument fix, in terms of an amount of money or a portion of such income, as a sum which is payable for the support of minor children of such husband. In case such income is less than the amount specified in the decree or instrument, for the purpose of applying the preceding sentence, such income, to the extent of such sum payable for such support, shall be considered a payment for such support.

(b) *Wife considered a beneficiary.* For the purposes of computing the net income of the estate or trust and the net income of the wife described in section 22 (k) or subsection (a) of this section, such wife shall be considered as the beneficiary specified in this supplement. A periodic payment under section 22 (k) to any part of which the provisions of this supplement are applicable shall be included in the gross income of the beneficiary in the taxable year in which under this supplement such part is required to be included.

* * * * *

(g) *Taxable years to which amendments applicable.* The amendments made by this section shall be applicable only with respect to taxable years beginning after December 31, 1941; except that if the first taxable year beginning after December 31, 1941, of the husband does not begin on the same day as the first taxable year beginning after December 31, 1941, of the wife, such amendments shall first become applicable in the case of the husband on the first day of the wife's first taxable year beginning after December 31, 1941, regardless of the taxable year of the husband in which such day falls.

§ 19.171–1 *Income of trust in case of divorce, etc.*—(a) *In general.* Section 171 (a) provides rules in certain cases for taxability of income of trusts as between spouses who are divorced or legally separated under a court order or decree. In such cases, the spouse actually entitled to receive payments from the trust is considered the beneficiary rather than the spouse in discharge of whose obligation such payments are made. For convenience, the beneficiary spouse will hereafter in this section and in § 19.171–2 be referred to as the "wife" and the obligor spouse from whom she is divorced or legally separated as the "husband." (See section 3797 (a) (17).) Thus, under section 171 (a) income of a trust—

(1) which is paid, credited or to be distributed to the wife in a taxable year of the wife beginning after December 31, 1941, and

(2) which, except for the provisions of section 171, would be includible in the gross income of her husband, shall be includible in her gross income and shall not be includible in his gross income.

Section 171 (a) does not apply in any case to which section 22 (k) applies. Although section 171 (a) and section 22 (k) seemingly cover some of the same situations, there are important differences between them. Thus, section 171 (a) applies, for example, to a trust created before the divorce or separation and not in contemplation of it, while section 22 (k) applies only if the creation of the trust or payments by a previously created trust are in discharge of a legal obligation imposed upon or assumed by the husband (or made specific) under the court decree or an instrument incident to the divorce or legal separation. On the other hand, section 22 (k) requires inclusion in the wife's income of the full amount of periodic payments received attributable to property in trust (whether or not out of trust income), while section 171 (a) requires amounts paid, credited or to be distributed to her to be included only to the extent such amounts are out of income of the trust for its taxable year (determined as provided in section 162).

Section 171 (a) is designed to produce uniformity as between cases described in section 171 (a) and cases not described in section 171 (a), where, in the former cases, without section 171 (a), the income of a so-called alimony trust would be taxable to the husband because of his continuing obligation to support his former wife, and where, in the latter cases, the income of a so-called alimony trust is taxable to the former wife because of the termination of the husband's obligation. Furthermore, section 171 (a) taxes trust income to the wife in all cases where under prior law the husband would be taxed not only because of the discharge of his alimony obligation but also because of his retention of control over the income or trust corpus. Section 171 (a) applies whether or not the wife is the beneficiary under the terms of the trust instrument or is an assignee of a beneficiary.

The application of section 171 (a) may be illustrated by the following examples, in which it is assumed that both the husband and wife make their income tax returns on a calendar year basis:

Example (1). Upon the marriage of H and W, H irrevocably transfers property in trust to pay the income therefrom to W for her life for support, maintenance and all other expenses. Some years later, W obtains a legal separation from H under an order of court. W, relying upon the income from the trust payable to her, does not ask for any provision for her support and none is ordered by the court; the court, however, has jurisdiction under the law of the State to order at any time prior to an absolute divorce that provision be made by H for W's support. Under the provisions of section 171 (a), the income of the trust which becomes payable to W in 1942 (after the order of separation) is includible in her income and is deductible by the trust. No part thereof is includible in H's income or deductible by him.

Example (2). H transfers property in trust for the benefit of W, retaining the power to revoke the trust at any time. H, however, promises that if he revokes the trust he will transfer to W property in the value of $100,000. The transfer in trust and the agreement were not incident to divorce, but some years later W divorces H. The court decree is silent as to alimony and the trust. After the divorce, income of the trust which becomes payable to W in any taxable year beginning after December 31, 1941 is taxable to her, and is not taxable to H or deductible by him. If H later terminates the trust and transfers $100,000 of property to W, such $100,000 is not income to W nor deductible by H.

(b) *Alimony trust income designated for support of minor children.* Section 171 (a) does not require the inclusion in the wife's income of trust income which the terms of the decree or trust instrument fix in terms of an amount of money or a portion of such income as a sum which is payable for the support of minor

children of the husband. The statute prescribes the treatment in cases where under the terms of the decree or trust instrument a specific amount of trust income is to be paid but a lesser amount becomes payable. In such cases, to the extent of the sum which would be payable for such support out of the originally specified amount of trust income, such trust income is considered payable for support of such minor children. This rule is similar to that provided in the case of periodic payments under section 22 (k). See § 19.22 (k)–1 (d).

§ 19.171–2 *Application of trust rules to alimony payments.* For the purpose of the application of sections 162, 163 and 164, the wife described in section 171 or section 22 (k) who is entitled to receive payments attributable to property in trust is considered a beneficiary of the trust, whether or not the payments are made for the benefit of the husband in discharge of his obligations.

A periodic payment includible in the wife's gross income under section 22 (k) attributable to property in trust shall be included in full in her gross income in her taxable year in which any part is required to be included under sections 162 and 164. Assume, for example, in a case in which both the wife and the trust file income tax returns on the calendar year basis, that an annuity of $5,000 is to be paid to the wife by the trustee every December 31 (out of trust income if possible and, if not, out of corpus) pursuant to the terms of a divorce decree. Of the $5,000 distributable on December 31, 1942, $4,000 is payable out of income and $1,000 out of corpus. The actual distribution is made in 1943. Although the periodic payment is received by the wife in 1943, since under sections 162 and 164 the $4,000 income distributable on December 31, 1942, is to be included in the wife's income for 1942, the $1,000 payment out of corpus is to be included in her income for 1942.

PAR. 21. There is inserted immediately preceding §19.3797–1, the following:

SEC. 120. ALIMONY AND SEPARATE MAINTENANCE PAYMENTS. (Revenue Act of 1942, Title I.)

* * * * *

(f) *Definitions.* Section 3797 (a) (relating to definitions) is amended by inserting at the end thereof the following new paragraph:

(17) *Husband and wife.* As used in sections 22 (k), 23 (u), 25 (b) (2) (A), and 171, and the last sentence of section 401 (a) (2), if the husband and wife therein referred to are divorced, wherever appropriate to the meaning of such sections, the term "wife" shall be read "former wife" and the term "husband" shall be read "former husband"; and, if the payments described in such sections are made by or on behalf of the wife or former wife to the husband or former husband instead of vice versa, wherever appropriate to the meaning of such sections, the term "husband" shall be read "wife" and the term "wife" shall be read "husband".

(g) *Taxable years to which amendments applicable.* The amendments made by this section shall be applicable only with respect to taxable years beginning after December 31, 1941; except that if the first taxable year beginning after December 31, 1941 of the husband does not begin on the same day as the first taxable year beginning after December 31, 1941, of the wife, such amendments shall first become applicable in the case of the husband on the first day of the wife's first taxable year beginning after December 31, 1941, regardless of the taxable year of the husband in which such day falls.

(Sec. 62 of the Internal Revenue Code (53 Stat. 32; 26 U. S. C. 62) and sections 110 and 120 of the Revenue Act of 1942 (Public Law 753, Seventy-seventh Congress).)

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved: December 8, 1942.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 42–13081; Filed, December 10, 1942; 10:13 a.m.]

[T.D. 5196]

PART 19—INCOME TAX UNDER THE INTERNAL REVENUE CODE

NON-TRADE OR NON-BUSINESS DEDUCTIONS, ETC.

Regulations 103 and prior income tax regulations amended. Deductions for non-trade or non-business expenses paid or incurred for the production or collection of income or for the management, conservation, or maintenance of property held by the taxpayer for the production of income. Deductions of amounts allowable for estate tax purposes denied as deduction for income tax purposes unless certain conditions are fulfilled. Sections 121 and 161, Revenue Act of 1942 (Public Law 753, 77th Congress), approved October 21, 1942.

In order to conform Regulations 103 [Part 19, Title 26, Code of Federal Regulations, 1940 Sup.] to sections 121 and 161 of the Revenue Act of 1942 (Public Law 753, 77th Congress), approved October 21, 1942, such regulations are amended as follows:

PARAGRAPH 1. The following is inserted immediately preceding § 19.23 (a)–1:

SEC. 121. NON-TRADE OR NON-BUSINESS DEDUCTIONS. (Revenue Act of 1942.)

(a) *Deduction for expenses.* Section 23 (a) (relating to deduction for expenses) is amended to read as follows:

(a) *Expenses.*

(1) *Trade or business expenses.*

(A) *In general.* All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered; traveling expenses (including the entire amount expended for meals and lodging) while away from home in the pursuit of a trade or business; and rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity.

(B) *Corporate charitable contributions.* No deduction shall be allowable under subparagraph (A) to a corporation for any contribution or gift which would be alowable as a deduction under subsection (q) were it not for the 5 per centum limitation therein contained and for the requirement therein that payment must be made within the taxable year.

(C) *Expenditures for advertising and good will.* If a corporation has, for the purpose of computing its excess profits credit under Chapter 2E, claimed the benefits of the election provided in section 733, no deduction shall be allowable under subparagraph (A) to such corporation for expenditures for advertising or the promotion of good will which, under the rules and regulations prescribed under section 733 (a), may be regarded as capital investments.

(2) *Non-trade or non-business expenses.* In the case of an individual, all the ordinary and necessary expenses paid or incurred during the taxable year for the production or collection of income, or for the management, conservation, or maintenance of property held for the production of income.

* * * * *

(d) *Taxable years to which amendments applicable.* The amendments made by this section shall be applicable to taxable years beginning after December 31, 1938.

PAR. 2. The following is inserted immediately after § 19.23 (a)–14:

§ 19.23 (a)–15 *Nontrade or non-business expenses*—(a) *In general.* Subject to the qualifications and limitations in Chapter 1 and particularly in section 24, as amended, an expense may be deducted under section 23 (a) (2) only upon the condition that:

(1) It has been paid or incurred by the taxpayer during the taxable year (i) for the production or collection of income which, if and when realized, will be required to be included in income for Federal income tax purposes, or (ii) for the management, conservation, or maintenance of property held for the production of such income; and

(2) It is an ordinary and necessary expense for either or both of the purposes stated in (1) above.

The term "income" for the purpose of section 23 (a) (2) comprehends not merely income of the taxable year but also income which the taxpayer has realized in a prior taxable year or may realize in subsequent taxable years; and is not confined to recurring income but applies as well to gains from the disposition of property. For example, if defaulted bonds, the interest from which if received would be includible in income, are purchased with the expectation of realizing capital gain on their resale, even though no current yield thereon is anticipated, ordinary and necessary expenses thereafter incurred in connection therewith are deductible. Similarly, ordinary and necessary expenses incurred in the management, conservation or maintenance of a building devoted to rental purposes are deductible notwithstanding that there is actually no income therefrom in the taxable year, and regardless of the manner in which or the purpose for which the property in question was acquired. Expenses incurred in managing, conserving, or maintaining property held for investment may be deductible under this provision even though the property is not currently productive and there is no likelihood that the property will be sold at a profit or will otherwise be productive of income and even though the property is held merely to minimize a loss with respect thereto. The expenses, however, of car-

rying on transactions, which do not constitute a trade or business of the taxpayer and are not carried on for the production or collection of income or for the management, conservation, or maintenance of property held for the production of income, but which are carried on primarily as a sport, hobby, or recreation are not allowable as nontrade or nonbusiness expenses.

Expenses, to be deductible under section 23 (a) (2), must be "ordinary and necessary", which presupposes that they must be reasonable in amount and must bear a reasonable and proximate relation to the production or collection of taxable income or to the management, conservation, or maintenance of property held for the production of income.

(b) Except for the requirement of being incurred in connection with a trade or business, a deduction under this section is subject to all the restrictions and limitations that apply in the case of the deduction under section 23 (a) (1) (A) of an expense paid or incurred in carrying on any trade or business. This includes restrictions and limitations contained in section 24, as amended. Section 24 (a) (5), as amended, continues to disallow any amount otherwise allowable as a deduction (whether under section 23 (a) (2) or otherwise) which is allocable to one or more classes of tax-exempt income, other than interest, and has the effect in addition of disallowing a deduction under section 23 (a) (2) for amounts otherwise allowable under that section which are allocable to tax-exempt interest. Thus any amount allocable to the production or collection of one or more classes of income which is not includible in gross income or to the management, conservation or maintenance of property held for the production of such income is not deductible under section 23 (a) (2). Nor does section 23 (a) (2) allow any expenses which are disallowed by any of the provisions of Chapter 1 of the Code.

Capital expenditures, and expenses of carrying on transactions which do not constitute a trade or business of the taxpayer and are not carried on for the production or collection of income or for the management, conservation, or maintenance of property held for the production of income, but which are carried on primarily as a sport, hobby, or recreation are not allowable as nontrade or nonbusiness expenses. The question whether or not a transaction is carried on primarily for the production of income or for the management, conservation, or maintenance of property held for the production or collection of income, rather than primarily as a sport, hobby, or recreation, is not to be determined solely from the intention of the taxpayer but rather from all the circumstances of the case, including the record of prior gain or loss of the taxpayer in the activity, the relation between the type of activity and the principal occupation of the taxpayer, and the uses to which the property or what it produces is put by the taxpayer.

Among expenditures not allowable under section 23 (a) (2) are the following: Commuters' expenses; expenses of taking special courses or training; expenses for improving personal appearance; the cost of rental of a safe-deposit box for storing jewelry and other personal effects; and expenses such as expenses in seeking employment or in placing oneself in a position to begin rendering personal services for compensation, campaign expenses of a candidate for public office, bar examination fees and other expenses incurred in securing admission to the bar, and corresponding fees and expenses incurred by physicians, dentists, accountants, and other taxpayers for securing the right to practice their respective professions.

Fees for services of investment counsel, custodian fees, clerical help, office rent, and similar expenses paid or incurred by a taxpayer in connection with investments held by him are deductible under section 23 (a) (2) only if (1) they are paid or incurred by the taxpayer for the production or collection of income, or for the management, conservation, or maintenance of investments held by him for the production of income; and (2) they are ordinary and necessary under all the circumstances, having regard to the type of investment and to the relation of the taxpayer to such investment.

Ordinary and necessary expenses in connection with the management, conservation, or maintenance of property used as a residence by the taxpayer or acquired by him for such use are not deductible, even though the taxpayer makes efforts to sell the property at a profit or to convert it to income-producing purposes, and even though the property is not occupied by the taxpayer as a residence, unless prior to the time that such expenses are incurred the property has been rented or otherwise appropriated to income-producing purposes by some affirmative act and has not been reconverted.

Expenditures incurred by an administrator or executor in securing the processes and orders of the court having jurisdiction over the probate of the estate, or in collecting the assets of the estate (other than income which, if and when realized, must be reported by the estate for income tax purposes), or in adjusting claims against the decedent, or in distributing the remaining assets to the beneficiaries, or in conserving the assets for ultimate distribution to the parties entitled thereto, are not deductible under this section. Ordinary and necessary expenses, however, which are paid or incurred during the taxable year by an administrator or executor for the production or collection of income which, if and when realized, must be reported by the estate for income tax purposes, such as fees for collecting rents on property in the estate of the decedent, or for collecting interest or dividends on securities in that estate, or which are paid or incurred during the taxable year for the management, conservation, or maintenance of property in the estate of the decedent held for the production of income, the income from which, if and when realized, must be reported by the estate for income tax purposes, such as expenditures for insurance or repairs, or expenditures of a similar nature, are deductible under this section at the option of the taxpayer notwithstanding that deductions therefor are allowable under section 812 (b) in computing the gross estate subject to the estate tax, provided the requisite statement and waiver are filed. (See section 162 (e).)

The ordinary expenditures of administration incurred in a receivership or bankruptcy proceeding are not deductible. Such expenditures include expenditures incurred in the performance of the ordinary duties of a receiver or trustee in bankruptcy, as, for example, fees paid to the attorney for the petitioning creditors, fees paid to the appraisers, and disbursements which are made in connection with the proceeding and which look toward the collection of the assets and their preservation pending ultimate distribution to the parties entitled thereto.

Reasonable amounts paid or incurred by a trustee on account of trustees' fees and other expenses which are ordinary and necessary in connection with the production or collection of trust income or with the management, conservation, or maintenance of trust property held for the production of income are deductible, notwithstanding that the trust is not engaged in a trade or business.

Reasonable amounts paid or incurred for the services of a guardian or committee for a ward or minor, and other expenses of guardians and committees which are ordinary and necessary, in connection with the production or collection of income inuring to the ward or minor, or in connection with the management, conservation, or maintenance of property, held for the production of income, belonging to the ward or minor, are deductible.

It is immaterial whether the expenses of fiduciaries are paid from the corpus of the estate or from income. Expenses derive their character not from the fund from which they are paid, but from the purposes for which they are incurred.

Expenditures incurred in defending or perfecting title to property, in recovering property (other than investment property and amounts of income which, if and when recovered, must be included in income), or in developing or improving property, constitute a part of the cost of the property and are not deductible expenses. Attorneys' fees paid in a suit to quiet title to lands are not deductible; but if the suit is also to collect accrued rents thereon, that portion of such fees is deductible which is properly allocable to the services rendered in collecting such rents. Expenditures incurred in protecting or asserting one's rights to property of a decedent as heir or legatee, or as beneficiary under a testamentary trust, are not deductible expenses. Expenditures incurred for the purpose of preparing tax returns (except to the extent such returns relate to taxes on property held for the production of income), for the purpose of recovering taxes (other than recoveries required to be included in income), or for the purpose of resisting a proposed additional assessment of

taxes (other than taxes on property held for the production of income) are not deductible expenses under this section, except that part thereof which the taxpayer clearly shows to be properly allocable to the recovery of interest required to be included in income.

The deduction of an item otherwise allowable under section 23 (a) (2) will not be disallowed simply because the taxpayer also had an election under chapter 1 to treat it as a capital expenditure, rather than to deduct it as an expense. (See section 24 (a) (7), added by section 122 of the Revenue Act of 1942.) Where, however, the item may properly be treated only as a capital expenditure or where it was properly so treated under an option granted in Chapter 1, no deduction is allowable under this section; and this is true regardless of whether any basis adjustment is allowed under section 113.

(c) The provisions of section 23 (a) (2) are not intended in any way to disallow expenses which would otherwise be allowable under section 23 (a) (1) or the regulations applicable thereto, or under any other section of the Internal Revenue Code or the regulations applicable thereto. Double deductions are not permitted. Amounts deducted under one provision of the Internal Revenue Code cannot again be deducted under any other provision thereof.

PAR. 3. The following is inserted immediately preceding § 19.23 (1)–1:

SEC. 121. NON-TRADE OR NON-BUSINESS DEDUCTIONS. (Revenue Act of 1942.)

* * * * *

(c) *Depreciation deduction.* The first sentence of section 23 (1) (relating to deduction for depreciation) is amended to read as follows: A reasonable allowance for the exhaustion, wear and tear (including a reasonable allowance for obsolescence)—

(1) of property used in the trade or business, or

(2) of property held for the production of income.

(d) *Taxable years to which amendments applicable.* The amendments made by this section shall be applicable to taxable years beginning after December 31, 1938.

* * * * *

PAR. 4. Section 19.23 (1)–1 is amended as follows:

(A) By inserting after "business" in the first sentence the following: "or treated under § 19.23 (a)–15 as held by the taxpayer for the production of income."

(B) By changing the third sentence to read as follows:

The proper allowance for such depreciation is that amount which should be set aside for the taxable year in accordance with a reasonably consistent plan (not necessarily at a uniform rate), whereby the aggregate of the amounts so set aside, plus the salvage value, will, at the end of the useful life of the depreciable property, equal the cost or other basis of the property determined in accordance with section 113.

PAR. 5. Section 19.23 (1)–2 is amended by inserting after "business" in the first and next to the last sentences the following: ", or treated under § 19.23 (a)–15 as held by the taxpayer for the production of income,".

PAR. 6. Section 19.23 (1)–3 is amended by inserting after the word "business" in the first and fourth sentences and after the word "trade" in the third sentence, the following: "or in the production of income."

PAR. 7. The following is inserted immediately preceding § 19.24–1:

SEC. 121. NON-TRADE OR NON-BUSINESS DEDUCTIONS. (Revenue Act of 1942.)

* * * * *

(b) *Allocable to exempt income.* Section 24 (a) (5) (relating to items not deductible) is amended by inserting after "this chapter" the following: ", or any amount otherwise allowable under section 23 (a) (2) which is allocable to interest (whether or not any amount of such interest is received or accrued) wholly exempt from the taxes imposed by this chapter."

* * * * *

(d) *Taxable years to which amendments applicable.* The amendments made by this section shall be applicable to taxable years beginning after December 31, 1938.

PAR. 8. Section 19.24–4 is amended as follows:

(A) Add in lieu of the words "other than interest" in the first full sentence in the first paragraph in subsection (a) and after the words "class of income" in the first clause of the second full sentence in (a) the following: "including interest only to the extent that amounts otherwise allowable under section 23 (a) (2) are allocable thereto".

(B) Add in lieu of the words "other than interest," after the words "any item or class," and after the words "class of income," in the second and third clauses, respectively, of the second full sentence in paragraph (a) the following: "as above defined".

(C) Add the following sentence at the end of the first paragraph in paragraph (a):

The term "taxable income" as used in this section means income which is required to be included in gross income; and the term "exempt income" means income which is not required to be included in gross income.

(D) Add the following sentence after the first full sentence in the first paragraph of paragraph (b):

For example, expenses paid or incurred for the production or collection of income which is wholly exempt from income taxes, such as interest or dividends of a type not includible in gross income, are not deductible expenses.

Prior Income Tax Regulations

PAR. 9. Subsection (e) of section 121 of the Revenue Act of 1942 (Public Law 753, 77th Congress) provides as follows:

For the purposes of the Revenue Act of 1938 or any prior revenue Act the amendments made to the Internal Revenue Code by this section shall be effective as if they were a part of such revenue act on the date of its enactment.

PAR. 10. Pursuant to the above provision of law, the amendments to §§ 19.23 (a), 19.23 (1)–1, 2, and 3, and 19.24–4 of Regulations 103 set forth in this Treasury decision (which regulations cover taxable years beginning after December 31, 1938), are hereby made applicable to taxable years beginning prior to January 1, 1939 (such years being covered by Regulations 101, 94, 86, 77, 74, 69, 65, 62, 45, and 33).

PAR. 11. The following is inserted immediately preceding § 19.162–1:

SEC. 161. DEDUCTIONS FOR ESTATE TAX AND INCOME TAX OF ESTATE. (Revenue Act of 1942.)

(a) *Double deductions denied.* Section 162 (relating to net income of estates and trusts) is amended by inserting at the end thereof the following new subsection:

(e) Amounts allowable under section 812 (b) as a deduction in computing the net estate of a decedent shall not be allowed as a deduction under section 23, except subsection (w), in computing the net income of the estate unless there is filed, within the time and in the manner and form prescribed by the Commissioner, a statement that the items have not been claimed or allowed as deductions under section 812 (b) and a waiver of the right to have such items allowed at any time as deductions under section 812 (b).

(b) *Taxable years to which amendment applicable.* The amendment made by subsection (a) insofar as it relates to section 23 (a) (2) shall be applicable with respect to the same taxable years and the same revenue laws as the amendments made by section 121 (relating to non-trade or non-business deductions) of this Act; and the other provisions shall be applicable to taxable years beginning after December 31, 1941.

PAR. 12. Section 19.162–1 is amended by inserting after the second full sentence in the first paragraph the following:

Amounts allowable under section 812 (b) as a deduction in computing the net estate of a decedent are not allowed as a deduction under section 23, except subsection (w), in computing the net income of the estate unless there is filed in duplicate with the return in which the item is claimed as a deduction a statement to the effect that the items have not been claimed or allowed as deductions from the gross estate of the decedent under section 812 (b) and a waiver of any and all right to have such item allowed at any time as a deduction under section 812 (b).

Taxable Years to Which Amendment Applicable

PAR. 13. In accordance with paragraph (b) of section 161, supra, the amendments to § 19.162–1 of Regulations 103 set forth in this Treasury decision (which regulations cover taxable years beginning after December 31, 1938) shall be applicable only to taxable years beginning after December 31, 1941 except insofar as they relate to section 23 (a) (2), in which case they shall also be applicable to taxable years beginning prior to January 1, 1939 (such years being covered by Regulations 101, 94, 86, 77, 74, 69, 65, 62, 45, and 33).

(This Treasury decision is issued under the authority contained in section 62 of the Internal Revenue Code (53 Stat. 32; 26 U.S.C., 1940 ed., 62), corresponding provisions of prior internal revenue laws, and sections 121 and 161 of the Revenue Act of 1942 (Public Law 753, 77th Congress).)

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved: December 8, 1942.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 42-13083; Filed, December 10, 1942; 10:12 a. m.]

[T.D. 5193]

PART 19—INCOME TAX UNDER THE INTERNAL REVENUE CODE

EXTENSION OF DEDUCTION FOR AMORTIZATION OF EMERGENCY FACILITIES

Regulations 103 amended to conform to section 155 of the Revenue Act of 1942, relating to extension of deduction for amortization of emergency facilities to persons other than corporations, and to corporations in the case of facilities acquired or constructed between January 1 and June 10, 1940, inclusive.

In order to conform Regulations 103 [Part 19, Title 26, Code of Federal Regulations, 1940 Sup.] to section 155 of the Revenue Act of 1942 (Public Law 753, 77th Congress), such regulations are amended as follows:

PARAGRAPH 1. There is inserted immediately preceding § 19.124-1 the following:

SEC. 155. EXTENSION OF DEDUCTION FOR AMORTIZATION OF EMERGENCY FACILITIES. (Revenue Act of 1942, Title I.)

(a) *General rule.* The first sentence of section 124 (a) is amended to read as follows: "Every person, at his election, shall be entitled to a deduction with respect to the amortization of the adjusted basis (for determining gain) of any emergency facility (as defined in subsection (e)), based on a period of sixty months."

(b) *Election of amortization.* Section 124 (b) is amended by adding at the end thereof the following new sentence: "In the case of an emergency facility completed or acquired (1) after December 31, 1939, and before June 11, 1940, by a corporation, or (2) after December 31, 1939, and before January 1, 1942, by a person other than a corporation, the taxpayer's election to take the amortization deduction and to begin such period with either the month following the month in which the facility was completed or acquired or with the succeeding taxable year shall be made only by a statement in writing to that effect to the Commissioner and shall be made before the expiration of six months after the date of enactment of the Revenue Act of 1942."

(c) *Termination of amortization period.* (1) Section 124 (d) (3) is amended to read as follows:

(3) In the case of a taxpayer which has not elected, in the manner prescribed in subsection (b), to take an amortization deduction with respect to an emergency facility, if the date of the proclamation or the date specified in the certificate, referred to in paragraph (1) of this subsection, whichever is earlier, is before the expiration of sixty months from the last day of the month in which such emergency facility was completed or acquired, then the taxpayer may elect (in accordance with paragraph (4) of this subsection) the amortization deduction provided in subsection (a), using an amortization period beginning with the month following the month in which the emergency facility was completed or acquired and ending as of the end of the month within which such proclamation was issued or within which occurred the date specified in such certificate, whichever is the earlier.

(2) Section 124 (d) is amended by inserting at the end thereof the following new paragraph:

(6) In the case of a taxpayer which has not elected, in the manner prescribed in subsection (b), to take an amortization deduction with respect to an emergency facility, if the date of the proclamation referred to in paragraph (1) of this subsection or the date specified in the certificate referred to in paragraph (1) of this subsection is before the completion of such emergency facility, then the taxpayer may elect (in accordance with paragraph (4) of this subsection) the amortization deduction provided in subsection (a), using an amortization period beginning with the month in which the construction, reconstruction, erection, or installation of the emergency facility was begun and ending as of the end of the month within which such proclamation was issued or within which occurred the date specified in the certificate referred to in paragraph (1) of this subsection, whichever is the earlier.

(d) *Definitions.* Section 124 (e) is amended to read as follows:

(e) *Definitions.*

(1) *Emergency facility.* As used in this section, the term "emergency facility" means any facility, land, building, machinery, or equipment, or part thereof, the construction, reconstruction, erection, installation, or acquisition of which was completed after December 31, 1939, and with respect to which a certificate under subsection (f) has been made. For the purposes of this section, the part of any facility which was constructed, reconstructed, erected, or installed by any person after December 31, 1939, and not earlier than six months prior to the filing of an application for a certificate under subsection (f), and with respect to which part a certificate under subsection (f) has been made, shall be deemed to be an emergency facility, notwithstanding that the other part of such facility was constructed, reconstructed, erected, or installed earlier than six months prior to the filing of such application. For the purposes of this section, the part of any facility which was constructed, reconstructed, erected, or installed by a corporation after December 31, 1939, and before June 11, 1940, and with respect to which part a certificate under subsection (f) has been made, shall be deemed to be an emergency facility and to have been completed on June 10, 1940, notwithstanding that the entire facility was not completed until after June 10, 1940.

(2) *Emergency period.* As used in this section, the term "emergency period" means the period beginning January 1, 1940, and ending on the date on which the President proclaims that the utilization of a substantial portion of the emergency facilities with respect to which certifications under subsection (f) have been made is no longer required in the interest of national defense.

(e) *Determination of adjusted basis of emergency facility.*

(1) Section 124 (f) (1) is amended to read as follows:

(1) There shall be included only so much of the amount otherwise constituting such adjusted basis as is properly attributable to such construction, reconstruction, erection, installation, or acquisition after December 31, 1939, as either the Secretary of War or the Secretary of the Navy has certified as necessary in the interest of national defense during the emergency period, which certification shall be under such regulations as may be prescribed from time to time by the Secretary of War and the Secretary of the Navy, with the approval of the President.

(2) Section 124 (f) (3) is amended to read as follows:

(3) The certificate provided for in paragraph (1) shall have no effect unless an application therefor is filed before the expiration of six months after the beginning of such construction, reconstruction, erection, or installation or the date of such acquisition, or before December 1, 1941, whichever is later, except that—

(A) in the case of an emergency facility completed or acquired by a corporation after December 31, 1939, and before June 11, 1940, such certificate shall have no effect unless an application therefor is filed before the expiration of six months after the date of the enactment of the Revenue Act of 1942, and

(B) in the case of an emergency facility completed or acquired after December 31, 1939, by a person other than a corporation, such certificate shall have no effect unless an application therefor is filed before the expiration of six months after the beginning of such construction, reconstruction, erection, or installation or the date of such acquisition, or before the expiration of six months after the date of the enactment of the Revenue Act of 1942, whichever is later.

In no event and notwithstanding any of the other provisions of this section, no amortization deduction shall be allowed in respect of any emergency facility for any taxable year—

(C) unless a certificate in respect thereof under paragraph (1) shall have been made (i) prior to the filing of the taxpayer's return for such taxable year, or prior to the making of an election pursuant to subsection (d) (3) or subsection (d) (6) of this section to take the amortization deduction, or (ii) before December 1, 1941, whichever is later; or

(D) in the case of an emergency facility completed or acquired by a corporation after December 31, 1939, and before June 11, 1940, unless a certificate in respect thereof under paragraph (1) shall have been made prior to the expiration of twelve months after the date of enactment of the Revenue Act of 1942; or

(E) in the case of an emergency facility completed or acquired after December 31, 1939, and before January 1, 1943, by a person other than a corporation, unless a certificate in respect thereof under paragraph (1) shall have been made (i) prior to the expiration of nine months after the last date upon which an application for such certificate may be filed, or (ii) prior to the expiration of twelve months after the date of enactment of the Revenue Act of 1942, whichever is later.

(f) *Life tenant and remainderman.* Section 124 is amended by inserting at the end thereof the following new subsection:

(i) *Life tenant and remainderman.* In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

* * * * *

(i) *Retroactive application of extension.* The amendments made by this section shall be effective as of October 8, 1940.

(j) *Overpayments.* Where a tax paid under Chapter 1, Chapter 2B, or Chapter 2E of the Internal Revenue Code is in excess of the tax which would have been paid had section 124 of the Internal Revenue Code, as previously amended, been enacted on October 8, 1940, to read as amended by this section, then credit or refund of such excess may be made without interest, in accordance with the provisions of law applicable in the case of erroneous or illegal assessment or collection or overpayment of the tax.

PAR. 2. Section 19.124-1, as added by Treasury Decision 5016, approved Octo-

ber 23, 1940, and amended by Treasury Decision 5049, approved May 29, 1941, and Treasury Decision 5104, approved December 23, 1941, is renumbered §19.-124–0 and amended to read as follows:

§ 19.124–0 *Definitions.* As used in this section and §§ 19.124–1 to 19.124–9, inclusive, the term:

(a) "Secretary of the Department concerned" means the Secretary of War or the Secretary of the Navy, as the case may be.

(b) "Emergency facility" means any facility, land, building, machinery, or equipment, or any part thereof:

(1) The acquisition of which occurred after December 31, 1939, or the construction, reconstruction, erection, or installation of which was completed after such date, and

(2) Any part of the construction, reconstruction, erection, installation, or acquisition of which has, under such regulations as may be prescribed by the Secretary of War and the Secretary of the Navy, with the approval of the President, been certified by the Secretary of the Department concerned as necessary in the interest of national defense during the emergency period.

The part of any facility which is constructed, reconstructed, erected, or installed by any person after December 31, 1939, and not earlier than six months prior to the filing of an application for a certificate of necessity under section 124 (f), and which is certified by the Secretary of the Department concerned as necessary in the interest of national defense during the emergency period, shall be deemed to be an emergency facility, notwithstanding that the other part of such facility was constructed, reconstructed, erected, or installed earlier than six months prior to the filing of such application. If the construction, reconstruction, erection, or installation of a facility by a corporation is begun before June 11, 1940, and completed after June 10, 1940, the part of such facility which is constructed, reconstructed, erected, or installed after December 31, 1939, and before June 11, 1940, shall be deemed to be an emergency facility, provided such part is certified by the Secretary of the Department concerned as necessary in the interest of national defense during the emergency period.

The term "emergency facility", as so defined, may include, among other things, improvements of land, such as the construction of airports and the dredging of channels.

(c) "Emergency period" means the period beginning on January 1, 1940, and ending on the date on which the President proclaims that the utilization of a substantial portion of the emergency facilities is no longer required in the interest of national defense.

PAR. 3. There is inserted immediately preceding § 19.124–2 the following new section:

§ 19.124–1 *Certificate of necessity.* The certification by the Secretary of the Department concerned that a facility is necessary in the interest of national defense during the emergency period shall have no effect:

(a) In the case of an emergency facility completed or acquired by a corporation after June 10, 1940, unless an application therefor is filed before the expiration of six months after the beginning of the construction, reconstruction, erection, or installation of such facility or the date of its acquisition, or before December 1, 1941, whichever is later (but see § 19.124–0 (b));

(b) In the case of an emergency facility completed or acquired by a corporation after December 31, 1939, and before June 11, 1940, unless an application therefor is filed before April 22, 1943; and

(c) In the case of an emergency facility completed or acquired after December 31, 1939, by a person other than a corporation, unless an application therefor is filed before the expiration of six months after the beginning of the construction, reconstruction, erection, or installation of such facility or the date of its acquisition, or before April 22, 1943, whichever is later.

PAR. 4. Section 19.124–2, as added by Treasury Decision 5016 and amended by Treasury Decision 5135 (approved April 1, 1942), is amended as follows:

(A) By striking out "corporation" in the first sentence and inserting "person" in lieu thereof.

(B) By inserting at the end of the first paragraph the following new sentence:

* * * If the construction, reconstruction, erection, or installation of an emergency facility by a corporation is begun before June 11, 1940, and completed after June 10, 1940, the part of such emergency facility which is constructed, reconstructed, erected, or installed after December 31, 1939, and before June 11, 1940, shall be deemed to have been completed on June 10, 1940.

(C) By striking out the second paragraph and inserting in lieu thereof the following paragraph:

With respect to an emergency facility, no amortization deduction shall be allowed for the taxable year in which or with which the taxpayer elects to begin the 60-month amortization period unless:

(a) In the case of an emergency facility completed or acquired by a corporation after June 10, 1940, a certificate of necessity in respect thereof shall have been made (1) before the filing of the taxpayer's return for such taxable year, or before the making of an election pursuant to section 124 (d) (3) or section 124 (d) (6) to take the amortization deduction, or (2) before December 1, 1941, whichever is later;

(b) In the case of an emergency facility completed or acquired by a corporation after December 31, 1939, and before June 11, 1940, unless a certificate of necessity in respect thereof shall have been made before October 22, 1943;

(c) In the case of an emergency facility completed or acquired by a person other than a corporation after December 31, 1942, unless a certificate of necessity in respect thereof shall have been made before the filing of the taxpayer's return for such taxable year, or before the making of an election pursuant to section 124 (d) (3) or section 124 (d) (6); or

(d) In the case of an emergency facility completed or acquired after December 31, 1939, and before January 1, 1943, by a person other than a corporation, unless a certificate of necessity in respect thereof shall have been made (1) before the expiration of nine months after the last date upon which an application for such certificate may be filed or (2) before October 22, 1943, whichever is later.

(D) By inserting at the end thereof the following new examples:

Example (4). On March 18, 1940, the R Corporation, which makes its income tax returns on the calendar year basis, begins the construction of a facility which is completed on October 25, 1940, at a cost of $350,000, of which $132,000 is attributable to construction before June 11, 1940, and $218,000 to construction after June 10, 1940. On January 28, 1941, the entire part of the construction after June 10, 1940, is certified as an emergency facility, and the R Corporation, in its income tax return for 1940, elects to take amortization deductions with respect thereto and to begin the 60-month amortization period with November 1940, the month following the month of completion. With respect to the part of the construction before June 11, 1940, the R Corporation in its returns for 1940 and 1941, takes depreciation deductions aggregating $5,000. On February 14, 1943, the entire part of the construction before June 11, 1940, is certified as a separate emergency facility. The R Corporation, in a statement in writing to the Commissioner made before April 22, 1943, elects to take amortization deductions with respect to such facility and to begin the 60-month amortization period with July 1940, the month following the month of completion. For such purposes, the adjusted basis of such facility at the end of July 1940 is $132,000. Such amortization deductions are in lieu of depreciation deductions, the depreciation deductions of $5,000 previously taken for 1940 and 1941 are disallowed. The allowable amortization deduction with respect to such facility for the taxable year 1940 is $13,200, computed as follows:

Monthly amortization deductions:	
July ($132,000÷60)	$2,200
August ($129,800÷59)	2,200
September ($127,600÷58)	2,200
For the remaining three months (similarly computed)	6,600
Total amortization deduction for 1940	13,200

The allowable amortization deduction with respect to such facility for the taxable year 1941, similarly computed, is $26,400.

Example (5). On April 1, 1940, A, an individual, who makes his income tax returns on a calendar year basis, acquires a facility at a cost of $182,700. In his returns for the taxable years 1940 and 1941, A takes depreciation deductions with respect to such facility of $2,700 and $3,600, respectively. On February 6,

1943, the facility is certified as an emergency facility and A, in a statement in writing made to the Commissioner before April 22, 1943, elects to take amortization deductions with respect thereto and to begin the 60-month amortization period with the taxable year 1941, the year succeeding the year in which the facility was acquired. The adjusted basis of such facility at the end of January 1941 is $180,000 ($182,700 less the depreciation of $2,700 taken in the return for 1940). Since amortization deductions are in lieu of depreciation deductions, the depreciation deduction of $3,600 previously taken for 1941 is disallowed. The allowable amortization deduction with respect to such facility for the taxable year 1941 is $36,000, computed as follows:

Monthly amortization deductions:	
January ($180,000÷60)	$3,000
February ($177,000÷59)	3,000
March ($174,000÷58)	3,000
For the remaining nine months (similarly computed)	27,000
Total amortization deductions for 1941	36,000

PAR. 5. Section 19.124–3, as added by Treasury Decision 5016, is amended to read as follows:

§ 19.124–3 *Election of amortization.* In the case of an emergency facility completed or acquired (1) after June 10, 1940, by a corporation or (2) after December 31, 1941, by a person other than a corporation—

(a) An election by the taxpayer to take amortization deductions with respect thereto and to begin the 60-month amortization period with the month following the month in which such facility was completed or acquired shall be made only by a statement to that effect in its return for the taxable year in which such facility was completed or acquired; and

(b) An election by the taxpayer to take amortization deductions with respect thereto and to begin the 60-month amortization period with the taxable year succeeding that in which such facility was completed or acquired shall be made only by a statement to that effect in its return for such succeeding taxable year.

In the case of an emergency facility completed or acquired (1) after December 31, 1939, and before June 11, 1940, by a corporation, or (2) after December 31, 1939, and before January 1, 1942, by a person other than a corporation, an election by the taxpayer to take amortization deductions with respect thereto and to begin the 60-month amortization period either with the month following the month of completion of acquisition or with the following taxable year shall be made only by a statement in writing to that effect filed with the Commissioner of Internal Revenue, Washington, D. C., before April 22, 1943.

No other method of making such elections is permitted. Any statement of election should contain a description clearly identifying each emergency facility for which an amortization deduction is claimed.

A taxpayer which does not elect, in the manner provided in section 124 (b), to take amortization deductions with respect to an emergency facility shall not, except as provided in sections 124 (d) (3) and 124 (d) (6), be entitled to amortization deductions with respect to such facility (see § 19.124–5 (*d*)).

PAR. 6. Section 19.124–5 is amended as follows:

(A) By inserting immediately preceding the first sentence of paragraph (d) the following: "(1) *General rule.*"

(B) By inserting at the end of paragraph (d) the following new subparagraph:

(2) *Special rule with respect to incompleted facilities.* If the date the emergency use ceases occurs after the beginning of the construction, reconstruction, erection, or installation of an emergency facility and such construction, reconstruction, erection, or installation is not completed, the taxpayer may elect, in the manner prescribed in paragraph (e) of this section, to take amortization deductions with respect to such facility, such amortization to be based on a period beginning with the month in which the construction, reconstruction, erection, or installation of such facility was begun and ending as of the end of the month in which occurs the date the emergency use ceases.

PAR. 7. Section 19.124–6, as added by Treasury Decision 5016 and amended by Treasury Decision 5104, is amended as follows:

(A) The first four paragraphs of paragraph (a) are amended to read as follows:

The adjusted basis of an emergency facility for purposes of computing the amortization deduction may differ from what would otherwise constitute the adjusted basis of such emergency facility, in that it shall be the adjusted basis for determining gain (see section 113) and in that it may be only a portion of what would otherwise constitute the adjusted basis. It will be only a portion of such other adjusted basis if only a portion of the basis (unadjusted) is attributable to the certified construction, reconstruction, erection, installation, or acquisition after December 31, 1939. It is therefore necessary first to determine the unadjusted basis of the emergency facility from which the adjusted basis for amortization purposes is derived.

The unadjusted basis for amortization purposes, in cases where the entire construction, reconstruction, erection, installation, or acquisition takes place after December 31, 1939, and such construction, reconstruction, erection, installation, or acquisition is certified in its entirety by the Secretary of the Department concerned as necessary in the interest of national defense during the emergency period, is the same as the unadjusted basis otherwise determined.

In cases where the Secretary of the Department concerned certifies the entire construction, reconstruction, erection, installation, or acquisition after December 31, 1939, as necessary in the interest of national defense during the emergency period, but only a portion of the construction, reconstruction, erection, installation, or acquisition attributable to the facility takes place after December 31, 1939, the unadjusted basis for the purposes of amortization is so much of the entire unadjusted basis as is attributable to that portion of the construction, reconstruction, erection, installation, or acquisition which took place after December 31, 1939. For example, the X Corporation begins the construction of a facility November 15, 1939, and such facility is completed on April 1, 1940, at a cost of $500,000, of which $300,000 is attributable to construction after December 31, 1939. The certificate of necessity covers the entire construction after December 31, 1939, and the unadjusted basis of the emergency facility for amortization purposes is therefore $300,000. For depreciation of the remaining portion of the cost ($200,000), see § 19.124–7.

If the Secretary of the Department concerned certifies only a portion of the construction, reconstruction, erection, installation, or acquisition after December 31, 1939, then the unadjusted basis for amortization purposes is limited to the amount attributable to such portion of the construction, reconstruction, erection, installation, or acquisition after December 31, 1939. Assuming the same facts as in the example in the preceding paragraph, except that the certificate is to the effect that only 50 percent of the construction after December 31, 1939, is necessary in the interest of national defense during the emergency period, the unadjusted basis for amortization purposes is 50 percent of $300,000, or $150,000.

(B) There is inserted immediately following the fourth paragraph of paragraph (a) the following new paragraph:

Where a corporation begins the construction, reconstruction, erection, or installation of a facility before June 11, 1940, and completes it after June 10, 1940, the part of such construction, reconstruction, erection, or installation taking place after December 31, 1939, and before June 11, 1940, and the part thereof taking place after June 10, 1940, each constitutes a separate emergency facility, provided a certificate of necessity under section 124 (f) has been made with respect to each such part (see section 124 (e) and § 19.124–0). Furthermore, the part of such construction, reconstruction, erection, or installation taking place after December 31, 1939, and before June 11, 1940, is deemed to have been completed on June 10, 1940 (see section 124 (e) (1) and § 19.124–2). Accordingly, under such circumstances, in applying the foregoing rules for determining the unadjusted basis of the emergency facility representing the part of the construction, reconstruction, erection, or installation taking place after June 10, 1940, the date "June 10, 1940" should be substituted for the date "December 31, 1939".

PAR. 8. Section 19.124–7, as added by Treasury Decision 5016 and amended by Treasury Decision 5104, is amended by striking out "June 10, 1940" wherever occurring therein and inserting in lieu thereof "December 31, 1939".

PAR. 9. There is inserted immediately following § 19.124–8 the following new section:

§ 19.124–9 *Life tenant and remainderman.* In the case of an emergency facility held by one person for life with remainder to another person, the amortization deduction shall be computed as if the life tenant were the absolute owner

of the facility and shall be allowable to the life tenant during his life.

PAR. 10. The following is inserted immediately before the heading "Partnerships" which precedes section 181:

SEC. 155. EXTENSION OF DEDUCTION FOR AMORTIZATION OF EMERGENCY FACILITIES. (Revenue Act of 1942, Title I.)

* * * * *

(g) *Allwance to estate or trust.* Supplement E (relating to estates and trusts) of Chapter 1 is amended by inserting at the end thereof the following new section:

SEC. 172. ALLOWANCE OF AMORTIZATION DEDUCTION.

The benefit of the deduction for amortization of emergency facilities allowed by section 23 (t) shall be allowed to estates and trusts in the same manner and to the same extent as in the case of an individual. The allowable deduction shall be apportioned between the income beneficiaries and the fiduciary under regulations prescribed by the Commissioner with the approval of the Secretary.

* * * * *

(i) *Retroactive application of extension.* The amendments made by this section shall be effective as of October 8, 1940.

(j) *Overpayments.* Where a tax paid under Chapter 1, Chapter 2B, or Chapter 2E of the Internal Revenue Code is in excess of the tax which would have been paid had section 124 of the Internal Revenue Code, as previously amended, been enacted on October 8, 1940, to read as amended by this section, then credit or refund of such excess may be made without interest, in accordance with the provisions of law applicable in the case of erroneous or illegal assessment or collection or overpayment of the tax.

§ 19.172–1 *Amortization of emergency facility of estate or trust.* In the case of an emergency facility, as defined in section 124 (e), acquired or completed by an estate or trust after December 31, 1939, such estate or trust is entitled to take amortization deductions with respect thereto in the same manner and to the same extent as in the case of an individual. See section 23 (t) and section 124 and the regulations thereunder. The principles governing the apportionment of depreciation in the case of property held in trust are applicable with respect to the amortization of an emergency facility of an estate or trust. (See § 19.23 (l)–1)

PAR. 11. The following is inserted immediately following § 19.189–1:

SEC. 155. EXTENSION OF DEDUCTION FOR AMORTIZATION OF EMERGENCY FACILITIES. (Revenue Act of 1942.)

* * * * *

(h) *Partnerships.* Supplement F (relating to partnerships) of Chapter 1 is amended by inserting at the end thereof the following new section:

SEC. 190. ALLOWANCE OF AMORTIZATION DEDUCTION.

In the case of emergency facilities of a partnership, the benefit of the deduction for amortization allowed by section 23 (t) shall not be allowed to the members of a partnership but shall be allowed to the partnership in the same manner and to the same extent as in the case of an individual.

(i) *Retroactive application of extension.* The amendments made by this section shall be effective as of October 8, 1940.

(j) *Overpayments.* Where a tax paid under Chapter 1, Chapter 2B or Chapter 2E of the Internal Revenue Code is in excess of the tax which would have been paid had section 124 of the Internal Revenue Code, as previously amended, been enacted on October 8, 1940, to read as amended by this section, then credit, or refund of such excess may be made without interest, in accordance with the provisions of law applicable in the case of erroneous or illegal assessment or collection or overpayment of the tax.

§ 19.190–1 *Amortization of emergency facility of partnership.* In the case of an emergency facility, as defined in section 124 (e), acquired or completed by a partnership after December 31, 1939, the partnership is entitled to take amortization deductions with respect thereto in the same manner and to the same extent as in the case of an individual. See section 23 (t) and section 124 and the regulations thereunder. Amortization deductions with respect to an emergency facility of a partneship are not allowed to the members of the partnership.

(Sec. 155 of the Revenue Act of 1942 (Public Law 753, 77th Congress), and section 62 of the Internal Revenue Code (53 Stat., 32, 26 U.S.C., 1940 ed., 62))

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved: December 8, 1942.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 42–13080; Filed, December 10, 1942; 10:13 a. m.]

[T.D. 5198]

PART 178—PRODUCTION, FORTIFICATION, TAX PAYMENT, ETC., OF WINE

CHAMPAGNE, ETC.

Pursuant to section 3176, Internal Revenue Code, Paragraph 3 (j) (§ 178.3 (j)) of Regulations No. 7 (26 CFR, Part 178) is amended to read as follows:

§ 178.3 *Definitions.* * * *

(j) "Champagne" and "sparkling wine" shall mean effervescent wine charged with carbon dioxide, resulting from fermentation of the wine within a closed container.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved: December 8, 1942.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 42–13085; Filed, December 10, 1942; 10:13 a. m.]

[T.D. 5197]

PART 314—TAXES ON GASOLINE, LUBRICATING OIL, AND MATCHES

MISCELLANEOUS AMENDMENTS

Sections 314.2, 314.4 and 314.44 of Regulations 44 (1939 Edition) amended.

In order to conform Regulations 44 (Part 314, Title 26, Code of Federal Regulations, 1939 Sup.), relating to taxes on gasoline, lubricating oil and matches under the Internal Revenue Code, to sections 601, 618 (b) and 608 of the Revenue Act of 1942 (Public Law 753, Seventy-seventh Congress, 2d Session), such regulations are amended as follows:

PARAGRAPH 1. There is inserted immediately preceding § 314.2, the following:

SEC. 601. EFFECTIVE DATE OF THIS TITLE. (Revenue Act of 1942, Title VI.)

This title shall take effect on the first day of the first month which begins more than 10 days after the date of the enactment of this Act.

PAR. 2. Section 314.2 as amended by Treasury Decision 5082, approved October 3, 1941, is further amended as follows:

(A) The second paragraph is amended to read as follows:

The rate of tax imposed on gasoline under section 3412 of the Internal Revenue Code was increased by section 1650 (a) of the Internal Revenue Code, as added by section 210 of the Revenue Act of 1940, and the increase made permanent by section 521 (b) of the Revenue Act of 1941. The rate of tax imposed on lubricating oil under section 3413 of the Internal Revenue Code was increased by section 1650 (a) of the Internal Revenue Code, as added by section 210 of the Revenue Act of 1940, and the increase made permanent by section 521 (b) of the Revenue Act of 1941. The rate was further increased by section 608 of the Revenue Act of 1942.

(B) The concluding sentence of the third paragraph is amended to read as follows:

The result then is that the tax rates on gasoline and on fancy wooden matches and wooden matches having a stained, dyed, or colored stick or stem in effect since July 1, 1940, and the tax on other matches applicable October 1, 1941, continue in effect indefinitely, and that the rate of tax on lubricating oils which has been effective since July 1, 1940, is superseded by a new rate effective on and after November 1, 1942.

PAR. 3. There is inserted immediately preceding § 314.3, the following:

SEC. 618. SALE UNDER CHATTEL MORTGAGE. (Revenue Act of 1942, Title VI.)

* * * * *

(b) *Manufacturers' sales taxes generally.* Section 3441 (c) (1) (relating to tax where articles are sold under installment or conditional sales contracts) is amended by striking out "or (C) a conditional sale" and inserting in lieu thereof "(C) a conditional sale, or (D) a chattel mortgage arrangement wherein it is provided that the sales price shall be paid in installments".

PAR. 4. Section 314.4, as amended by Treasury Decision 5082, is further amended by adding the following new paragraph:

Where an article is sold on or after November 1, 1942, under a chattel mortgage arrangement with payments to be made in installments, a proportionate part of the total tax shall be paid upon each payment received with respect to the article. The tax must be returned and paid to the collector during the month following that in which such payment is received.

PAR. 5. There is inserted immediately preceding § 314.40 the following:

SEC. 608. LUBRICATING OILS. (Revenue Act of 1942, Title VI.)

Section 3413 (relating to tax on lubricating oils) is amended by striking out "4½ cents" and inserting in lieu thereof "6 cents".

PAR. 6. The first sentence of § 314.44, as amended by Treasury Decision 5082, is further amended to read as follows:

The tax is payable by the manufacturer at the rate of 4 cents per gallon

prior to July 1, 1940, at the rate of 4½ cents per gallon for the period July 1, 1940 to October 31, 1942, inclusive, and at the rate of 6 cents per gallon on and after November 1, 1942.

(Secs. 601, 618 (b) and 608 of the Revenue Act of 1942, approved October 21, 1942, and section 3791 of the Internal Revenue Code (53 Stat., 467; 26 U.S.C., 1940 Ed., 3791))

[SEAL] GUY T. HELVERING,
Commisioner of Internal Revenue.

Approved: December 8, 1942.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 42-13084; Filed, December 10, 1942; 10:12 a. m.]

TITLE 30—MINERAL RESOURCES

Chapter III—Bituminous Coal Division

[Docket No. A-1716]

PART 330—MINIMUM PRICE SCHEDULE, DISTRICT NO. 10

ORDER GRANTING RELIEF, ETC.

Order granting temporary relief and conditionally providing for final relief in the matter of the petition of District Board No. 10, for the establishment of price classifications and minimum prices for coals of Sunny Brook Coal Company.

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, was duly filed with the Division by the above-named party, requesting the establishment, both temporary and permanent, of price classifications and minimum prices for the coals produced by the Sunny Brook No. 2 Mine, Mine Index No. 148, of the Sunny Brook Coal Company (Fred Edwards), for all shipments except truck.

In an order issued February 17, 1942, 7 F.R. 1538, in Docket No. A-1079, minimum prices for all shipments except truck were established for 37 mines, including Sunny Brook Mine, Mine Index No. 1226 of Sunny Brook Coal Company, from the transportation facilities of the McLaren Fuel Company's transportation plant near Marion, Illinois, on the Illinois Central and the Missouri Pacific Railroads.

Petitioner now alleges that at the time the order in Docket No. A-1079 was issued, Sunny Brook Mine, Mine Index No. 1226 had been abandoned and that the Sunny Brook Coal Company was then operating Sunny Brook No. 2 Mine, Mine Index No. 1481, truck prices for which were established in Docket No. A-1060, and that Sunny Brook No. 2 Mine, Mine Index No. 1481, should have been included in the petition in Docket No. A-1079 instead of Sunny Brook Mine, Mine Index No. 1226.

It appearing that a reasonable showing of necessity has been made for the granting of temporary relief in the manner hereinafter set forth; and that no petitions of intervention have been filed with the Division in the above-entitled matter; and the following action being deemed necessary in order to effectuate the purposes of the Act;

Now, therefore, it is ordered, That the price classifications and minimum prices established for the coals of the Sunny Brook Coal Company Mine, Mine Index No. 1226, by order entered in Docket No. A-1079 on February 17, 1942, 7 F.R. 1538, be and the same are hereby terminated.

It is further ordered, That, pending final disposition of the above-entitled matter, temporary relief be, and the same hereby is, granted as follows: Commencing forthwith § 330.4 (*Price groups*) is amended by adding thereto Supplement R-I, and § 330.10 (*Special prices*—(a) (2) *Railroad locomotive fuel prices*) is amended by adding thereto Supplement R-II, which supplements are hereinafter set forth and hereby made a part hereof.

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate, or modify the temporary relief herein granted may be filed with the Division within forty-five (45) days from the date of this order, pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

It is further ordered, That the relief herein granted shall become final sixty (60) days from the date of this order, unless it shall otherwise be ordered.

Dated: December 1, 1942.

[SEAL] DAN H. WHEELER,
Director.

TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 10

NOTE: The material contained in these supplements is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 330, Minimum Price Schedule for District No. 10 and supplements thereto.

FOR ALL SHIPMENTS EXCEPT TRUCK

§ 330.4 *Price groups*—Supplement R-I

Price group No.	Producer	Mine	Mine Index No.	Freight origin group	Shipping point	Railroad
5	Sunny Brook Coal Company (Fred Edwards)	Sunny Brook #2	1481	142	Marion, Ill.	IC-MP.

The f. o. b. mine prices for Mine Index No. 1481 shall be the same as the prices provided for the mines in Price Group 5 in Price Schedule No. 1 for District No. 10, for All Shipments Except Truck, for all size groups and for all uses and for shipment to all market areas: *Provided, however,* That these prices apply f. o. b. transportation facilities at the McLaren Fuel Co.'s Preparation Plant, Marion, Ill.

§ 330.10 *Special prices*—(a) (2) *Railroad locomotive fuel prices*—Supplement R-II

Price Group No.	Producer	Mine	Mine Index No.	Freight origin group	Shipping point	Railroad
5	Sunny Brook Coal Company (Fred Edwards).	Sunny Brook #2	1481	142	Marion, Ill.	IC-MP

The railroad locomotive fuel prices shall be: mine run—$2.15; screenings—$1.70. Railroad locomotive fuel price Exception 2-H, 61 and 64 shall apply.

[F. R. Doc. 42-13043; Filed, December 9, 1942; 11:35 a. m.]

[Docket No. A-1738]

PART 330—MINIMUM PRICE SCHEDULE, DISTRICT NO. 10

ORDER GRANTING RELIEF, ETC.

Order granting temporary relief and conditionally providing for final relief in the matter of District Board No. 10 for establishment of minimum prices for the mines of Kenneth McDonald and Seibert Tregoning.

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party, requesting the establishment, both temporary and permanent, of minimum prices for the coals of the McDonald Mine, Mine Index No. 1613, of Kenneth McDonald and of the Vulcan Mine, Mine Index No. 1611, of Seibert Tregoning for truck shipments; and

It appearing that a reasonable showing of necessity has been made for the granting of temporary relief in the manner hereinafter set forth; and

No petitions of intervention having been filed with the Division in the above-entitled matter; and

The following action being deemed necessary in order to effectuate the purposes of the Act;

It is ordered, That, pending final disposition of the above-entitled matter, temporary relief is granted as follows: Commencing forthwith, § 330.25 (*General prices in cents per net ton for shipment into all market areas*) is amended by adding thereto Supplement R, which supplement is hereinafter set forth and hereby made a part hereof.

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate, or modify the temporary relief herein granted may be filed with the Division within forty-five (45) days from the date of this Order, pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

It is further ordered, That the relief herein granted shall become final sixty (60) days from the date of this Order, unless it shall otherwise be ordered.

Dated: December 1, 1942.

[SEAL] DAN H. WHEELER,
Director.

TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 10

NOTE: The material contained in this supplement is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 330, Minimum Price Schedule for District No. 10 and supplements thereto.

FOR TRUCK SHIPMENTS

§ 330.25 *General prices in cents per net ton for shipment into all market areas*—Supplement T

Code member index	Mine index No.	Mine	Seam	Prices and size group Nos.														
				1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
SECTION NO. 5—SCHUYLER COUNTY																		
McDonald, Kenneth	1613	McDonald	2	260	255	250	240	235	230	175	170	165	160	160	160	130	120	65
SECTION NO. 10—WILLIAMSON COUNTY																		
Tregoning, Seibert	1611	Vulcan	5	220	220	220	205	200	195	185	165	155	155	155	155	135	135	70

[F. R. Doc. 42-13044; Filed, December 9, 1942; 11:35 a. m.]

[Docket No. A-1670]

PART 334—MINIMUM PRICE SCHEDULE, DISTRICT NO. 14

ORDER GRANTING RELIEF, ETC.

Order granting temporary relief and conditionally providing for final relief in the matter of the petition of District Board No. 14 for the establishment of price classifications and minimum prices for certain mines in District No. 14.

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party, requesting the establishment, both temporary and permanent, of price classifications and minimum prices for the coals of certain mines in District No. 14; and

It appearing that a reasonable showing of necessity has been made for the granting of temporary relief in the manner hereinafter set forth; and

No petitions of intervention having been filed with the Division in the above-entitled matter; and

The following action being deemed necessary in order to effectuate the purposes of the Act;

It is ordered, That, pending final disposition of the above-entitled matter, temporary relief is granted as follows: Commencing forthwith § 334.5 (*Alphabetical list of code members*) is amended by adding thereto Supplement R, and § 334.24 (*General prices for shipment into all market areas*) is amended by adding thereto Supplement T, which supplements are hereinafter set forth and hereby made a part hereof.

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate or modify the temporary relief herein granted may be filed with the Division within forty-five (45) days from the date of this order, pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

It is further ordered, That the relief herein granted shall become final sixty (60) days from the date of this order, unless it shall otherwise be ordered.

No price classifications or minimum prices are proposed by petitioner for the coals in Size Group 12 produced at the No. 1 Mine (Mine Index No. 606) of code member Lowrimore, Burns and Magnani Coal Co. (Walter Lowrimore), in Subdistrict No. 5 of District No. 14 and at the No. 7 Mine (Mine Index No. 612) of code member D. B. Withers (Bates Coal Company), in Subdistrict No. 9 of District No. 14. However, the order issued in Dockets Nos. A-137, A-208 and A-251, on March 28, 1942, 7 F.R. 2703, permanently established a price classification of "L" for all shipments except truck and a minimum price of $3.00 per ton for truck shipments for the coals in Size Group 12 produced at mines in Production Groups 2 to 9, inclusive, in District No. 14. For the purpose of uniformity, it is deemed advisable to establish classifications and minimum prices for the above-named mines which will correspond with those in effect for other mines in the same subdistricts producing comparable and analogous coals. Accordingly, price classifications and minimum prices for all shipments except truck and for truck shipments have been included in the attached schedules marked Supplement R and Supplement T for the coals in Size Group 12 produced from Mine Index Nos. 606 and 612.

The price classifications and minimum prices set forth in the attached schedules marked Supplement R and Supplement T are based upon the price classifications and minimum prices in effect on October 1, 1942, for comparable and analogous coals and reflect the changes, if any, made in minimum prices by the Acting Director's order of August 28, 1942, 7 F.R. 6943, in General Docket No. 21.

Dated: November 24, 1942.

[SEAL] DAN H. WHEELER, *Director*.

TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 14

NOTE: The material contained in these supplements is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 334, Minimum Price Schedule for District No. 14 and supplements thereto.

FOR ALL SHIPMENTS EXCEPT TRUCK

§ 334.5 *Alphabetical list of code members*—Supplement R

[Alphabetical list of code members showing price classification by size group for all uses except railroad locomotive fuel]

Code member	Mine index No.	Mine name	Prod. group No.	Shipping point	Railroad	Frt. origin group No.	Price classification by size group																		
							1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
Lowrimore, Burns, & Magnani Coal Co. (Walter Lowrimore)	606	No. 1	5	Midland, Ark	SL-SF	16	(†)	(†)	O	(†)	(†)	(†)	(†)	(†)	(†)	(†)	(†)	L	(†)	B	(†)	(†)	(†)	O	(†)	(†)
Withers, D. B. (Bates Coal Company)	612	No. 7	9	Heavener, Okla	Ark. W	10	(†)	(†)	A	(†)	(†)	H	H	H	(†)	(†)	F	L	D	B	B	B	A	H	(†)	(†)

†Indicates no classification effective for this size group.

§ 334.24 *General prices for shipment into all market areas*—Supplement T

Code member index	Mine index No.	Mine	Subdistrict No.	County	Prices and size group numbers																	
					1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
Lowrimore, Burns, & Magnani Coal Co. (Walter Lowrimore)	606	No. 1	5	Sebastian, Ark.	(†)	(†)	415	(†)	(†)	(†)	(†)	(†)	(†)	(†)	(†)	330	(†)	165	(†)	(†)	(†)	345	(†)	(†)
Withers, D. B. (Bates Coal Company)	612	No. 7	9	Scott, Ark.	(†)	(†)	455	(†)	(†)	455	455	455	(†)	(†)	385	330	230	165	145	135	215	300	(†)	(†)

†Indicates no classification effective for this size group.

[F. R. Doc. 42-13045; Filed, December 9, 1942; 11:35 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter IX—War Production Board

Subchapter B—Director General for Operations

PART 1010—SUSPENSION ORDERS

[Suspension Order S-176]

CITY FLUORESCENT LIGHTS

City Fluorescent Lights, a sole proprietorship owned and managed by Maurice Entliss, is located at 909 Arch Street, Philadelphia, Pennsylvania. The Company is engaged in the retail sale and installation of fluorescent lighting fixtures and various types of lighted signs. From July 2, 1942 to August 13, 1942 the Company made nine sales, totaling thirty-five units, of new fluorescent lighting fixtures constructed for the operation of a tube or bulb having a wattage in excess of thirty watts, without any preference ratings being extended to it. The Company knew that General Limitation Order L-78 as amended prohibited these sales from being made without the proper preference ratings, but gratuitously assumed that the concerns to which it made eight of these sales were engaged in war work and could use preference ratings to purchase the fixtures. However, no preference ratings could be extended to the Company for any of these purchases. The Company, therefore, wilfully violated General Limitation Order L-78 as amended by selling and delivering these thirty-five fixtures in fulfillment of unrated orders. Furthermore, the Company furnished false and misleading information to the investigator from the War Production Board.

These violations of General Limitation Order L-78 as amended have hampered and impeded the war effort of the United States. In view of the foregoing facts:

It is hereby ordered, That:

§ 1010.176 *Suspension Order S-176.* (a) Deliveries of material to Maurice Entliss, doing business as City Fluorescent Lights, or otherwise, his successors and assigns, shall not be accorded priority over deliveries under any other contract or order, and no preference rating shall be assigned or applied to such deliveries by means of preference rating certificates, preference rating orders, general preference orders, or any other orders or regulations of the Director of Industry Operations or the Director General for Operations, except as specifically authorized by the Director General for Operations.

(b) No allocation shall be made to Maurice Entliss, doing business as City Fluorescent Lights or otherwise, his successors and assigns, of any material the supply or distribution of which is governed by any order of the Director of Industry Operations or the Director General for Operations, except as specifically authorized by the Director General for Operations.

(c) Nothing contained herein shall be deemed to relieve Maurice Entliss, doing business as City Fluorescent Lights or otherwise, his successors and assigns from any restriction, prohibition or provision contained in any other order or regulation of the Director of Industry Operations or the Director General for Operatoins except in so far as the same may be inconsistent with the provisions hereof.

(d) This order shall take effect on December 11, 1942 and shall expire on May 11, 1943, at which time the provisions of this order shall have no further effect.

Issued this 9th day of December 1942.

ERNEST KANZLER,
Director General for Operations.

[F. R. Doc. 42-13076; Filed, December 9, 1942; 4:00 p. m.]

PART 1068—CANS

[Conservation Order M-81, as Amended December 9, 1942]

1. The designation of Part 1068 (formerly "Cans made of Tinplate or Terneplate") is hereby amended to read "Cans".

2. Section 1068.1 *Conservation Order M-81* is hereby amended to read as follows:

§ 1068.1 *Conservation Order M-81*—(a) *Definitions.* (1) "Can" means any unused container which is made in whole or in part of tinplate, terneplate, blackplate, or waste, and which is suitable for packing any product. The term includes any container closure or fitting made in whole or in part of tinplate, terneplate, blackplate, or waste, but does not include a closure or fitting to be used on or as a part of a glass container. The term does not include fluid milk shipping containers, as defined in Conservation Order M-200.

(2) "Tinplate" means sheet steel coated with tin, and includes "primes", "seconds", "waste-waste", and all other forms of tinplate except waste.

(3) "Terneplate" means sheet steel coated with a lead-tin alloy, and includes "primes", "seconds", "waste-waste", and all other forms of terneplate except waste.

(4) "Blackplate" means any sheet steel 29 gauge or lighter, other than tinplate or terneplate. The term includes "rejects" and all other forms of blackplate except waste.

(5) "Waste" means scrap tinplate, terneplate, and blackplate, produced in the ordinary course of manufacturing cans.

(6) "Pack", unless particularly specified, means the quantity, by area measurement, of tinplate, terneplate, and blackplate required for the manufacture of all sized cans used by a person for packing a particular product during the base period specified.

(b) *Restrictions upon manufacture, sale, and delivery of cans.* (1) No person shall sell or deliver any can except under a purchase order or contract validated by a delivery to such person of a purchaser's certificate, manually signed by the purchaser or an authorized official of the purchaser, in substantially the form attached hereto as Exhibit A. No person shall manufacture, sell, or deliver any can which he knows or has reason to believe will be used in violation of any provision of this order.

(2) No person shall manufacture any can smaller than 5 gallons, with ears, bails, or handles.

(c) *Restrictions upon purchase, acceptance of delivery, and use of cans.* (1) No person shall, during the calendar year 1943 (or the seasonal year 1942-1943, when specified), purchase, accept delivery of, or use for packing a product any can except to the extent permitted in Schedules I, II, and III, attached to this order: *Provided, however*, That a jobber or retail store may obtain and sell cans in conformity with the provisions of this order.

(2) The schedules attached to this order list the only products permitted to be packed in cans, packing quotas, sizes of cans, and the kinds of plate permitted for the manufacture of cans.

The calendar year basis shall obtain except for products for which a seasonal year is specified. A seasonal year for a particular product represents a twelve months' period beginning in one calendar year and ending in the next.

The sizes of the can specified for a particular product indicate the only sized cans which may be used for packing that product, except that such product may, subject to all other restrictions imposed by this order, be packed in cans larger than the largest size specified therefor.

When tinplate is specified for the manufacture of cans for packing a particular product, the coating indicated represents the maximum weight of tin coating per single base box. When SCMT is specified, Special Coated Manufacturers' Terneplate is referred to. When blackplate is specified, the specification includes chemically treated blackplate (CTB).

(3) No product packed in a can shall be repacked for sale in a can or any other container, by the same or a different person, in the same or a different form, except to the extent specifically permitted in the schedules attached to this order.

(4) No dried or frozen fruit or vegetable shall be packed in a can, except to the extent specifically permitted in the schedules attached to this order.

(d) *Exceptions.* (1) The restrictions imposed by this order shall not apply to the purchase, acceptance of delivery, or use of the following cans:

(i) Cans for packing any product which is not to be sold.

(ii) Fiber or paper bodied cans with ends made of waste, for packing any food product for human consumption, and antiseptic or medicinal powders.

(iii) Cans for packing any product not listed in the schedules attached to this order, when such cans were completely manufactured on or before December 9, 1942, or when all the component parts for such cans were cut to individual size or were partially assembled before said date: *Provided,* That this paragraph (d) (1) (iii) shall not apply when such cans can be used for any products otherwise permitted by this order, and provided, that this paragraph (d) (1) (iii) shall not apply to open-top sanitary cans.

(iv) Cans for packing any product not listed in the schedules attached to this order, when such cans are to be delivered pursuant to a letter of intent approved by, or a purchase order or contract negotiated for or with the Army, Navy, Marine Corps, Maritime Commission, or War Shipping Administration of the United States.

(2) Notwithstanding the restrictions pertaining to the size of cans or the materials from which cans may be manufactured, but subject to quota restrictions imposed by this order, a person may use for packing any product listed in the schedules attached to this order, any cans which were completely manufactured on or before December 9, 1942, or any cans for which all component parts were lithographed, cut, or otherwise prepared for assembly, on or before said date.

(3) No certificate shall be required for the sale or delivery of cans to any purchaser who has already filed a certificate with his seller under Conservation Order M-81.

(e) *Miscellaneous provisions*—(1) *Applicability of priorities regulations.* This order and all transactions affected thereby are subject to all applicable provisions of the priorities regulations of the War Production Board, as amended from time to time.

(2) *Appeals.* Any appeal from the provisions of this order shall be made by filing a letter in triplicate, referring to the particular provision appealed from and stating fully the grounds of appeal.

(3) *Communications.* All reports required to be filed hereunder and all communications concerning this order shall, unless otherwise directed, be addressed to: Containers Division, War Production Board, Washington, D. C. Ref.: M-81.

(4) *Violations.* Any person who wilfully violates any provision of this order, or who, in connection with this order, wilfully conceals a material fact or furnishes false information to any department or agency of the United States is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further delivery of, or from processing or using, material under priority control and may be deprived of priorities assistance.

(5) *1942 Calendar year pack.* Until December 31, 1942, no person packing on a calendar year basis shall purchase, accept delivery of, or use any can for packing any product except in accordance with Conservation Order M-81, as amended June 27, 1942, (including amendments thereto).

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E. O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 9th day of December 1942.

ERNEST KANZLER,
Director General for Operations.

EXHIBIT A

PURCHASER'S CERTIFICATE

One copy of this certificate is to be delivered to each person from whom purchases are made of cans made in whole or in part of tinplate, terneplate, blackplate, or waste. Such certificate shall cover all purchases present and future so long as Conservation Order M-81, in its present form or as it may be amended from time to time, remains in effect.

The undersigned purchaser hereby certifies to the seller herein and to the War Production Board that he is familiar with Conservation Order M-81, as heretofore amended, and that during the life of such order he will not use or sell any can purchased from

---
(Name of Seller)

(Address of Seller)

pursuant to this or future purchase orders or contracts, in violation of terms of such order.

Date---------- ---
(Legal name of Purchaser)

By ---
(Authorized Official)

(Title of Official)

(Address of Purchaser)

Section 35A of the U. S. Criminal Code (18 U. S. C. 80) makes it a criminal offense to make a false statement or representation to any department or agency of the United States as to any matter within its jurisdiction.

SCHEDULE I—FOOD CANS

(1) Packing quotas specified in this Schedule I indicate total packs of the respective products listed, for all purposes including cans required by any order of the Director General for Operations, to be set aside for purchase by a Government Agency. The designation "M-80" indicates that cans may be used for packing only the quantity of product required to be set aside by Order M-80, as amended from time to time.

(2) All persons manufacturing cans shall, to the greatest extent available, use 0.40 tinplate wherever the single asterisk appears; and chemically treated blackplate wherever the double asterisk appears. All persons using cans marked with the asterisk, are hereby required to accept from the manufacturer making delivery, to the greatest extent available up to 50 percent of the delivery, cans made as specified of 0.40 tinplate wherever the single asterisk appears; and cans made as specified of chemically treated blackplate wherever the double asterisk appears.

Product	Packing quota	Can size	Can materials	
			Body	Ends
FRUITS AND FRUIT PRODUCTS				
1. Apples, including crabapples. Whole apples not to be packed.	M-80	10	1.25 tin	1.25 tin.
2. Apple sauce, including sauce from crabapples.	M-80	2-10	1.25 tin	1.25 tin.
3. Apricots. Whole apricots not to be packed.	M-80	2½-10	1.25 tin	1.25 tin.
4. Blackberries, black raspberries, boysenberries, loganberries, and youngberries, when packed as berries. Quota applicable to each kind of berries respectively.	100% 1942	2-2½-10	1.40 tin	1.40 tin.
5. Blueberries or huckleberries	M-80	10	1.40 tin	1.40 tin.
6. Cherries, other than white	100% 1942	2-2½-10	1.40 tin	1.40 tin.
7. Cherries, white	100% 1942	2-2½-10	1.25 tin	1.25 tin.
8. Fruit cocktail, consisting of any combination of fruits listed in this schedule I and grapes; provided that the combination, by drained weight, shall consist of not less than 50 percent fruits listed in this Schedule I, and may consist of not to exceed 10 percent grapes. Pineapple may be repacked from No. 10 or larger cans, to the extent of 7 percent of the fruit cocktail.	Unlimited	2½-10	1.25 tin	1.25 tin.
9. Figs	M-80	10	1.25 tin	1.25 tin.
10. Grapefruit, segments	M-80	2	1.25 tin	1.25 tin.
11. Grapefruit juice	Unlimited	2-3 cyl-10	1.25 tin	1.25 tin.
12. Orange juice	M-80	2-3 cyl-10	1.25 tin	1.25 tin.
13. Orange—grapefruit juice blend, consisting of at least 40 percent orange juice.	M-80	2-3 cyl-10	1.25 tin	1.25 tin.
14. Peaches (clingstone), halves, slices, or cubes.	Unlimited	2½-10	1.25 tin	1.25 tin.
15. Peaches freestone), halves, slices, or cubes. Not to be packed in California.	Unlimited	2½-10	1.25 tin	1.25 tin.
16. Pears, halves, slices, or cubes	Unlimited	2½-10	1.25 tin	1.25 tin.
17. Pineapple, slices, chunks, crushed, or tidbits. Spears not to be packed.	Unlimited	2-2½-3 cyl-10	1.25 tin	1.25 tin.
18. Pineapple juice	Unlimited	2-3 cyl-10	1.2 tin	1.25 tin.
19. Plums, yellow or green	100% 1942	2½-10	1.40 tin	1.40 tin.
20. Prunes, fresh Italian. Not to be packed in California.	60% 1942	2½-10	1.40 tin	1.40 tin.
21. Olives, ripe. Not to exceed 50 percent of permitted pack may be in cans smaller than No. 10. (Quota applicable only to olives from 1942 crop.)	25% 1940-41	2½-10	1.25 tin	1.25 tin.
VEGETABLES AND VEGETABLE PRODUCTS				
22. Asparagus, green. White asparagus not to be packed.	Unlimited	2-2½-10	1.25 tin	1.25 tin*.
23. Beans, green or wax	Unlimited	2-2½-10	1.25 tin	1.25 tin*.
24. Fresh shelled beans, including lima beans.	Unlimited	2-2½-10	0.40 tin	CTB.
25. Beets, whole beets not to be packed	M-80	2-2½-10	1.25 tin	1.25 tin*.
26. Carrots, whole carrots not to be packed	M-80	2-2½-10	1.25 tin	1.25 tin*.
27. Corn, fresh, sweet, cut	Unlimited	2-10-2 vacuum (307 x 306) for vacuum pack.	0.40 tin	CTB.
28. Peas, green	Unlimited	2-10-2 vacuum (307 x 306) for vacuum pack.	0.40 tin	0.40 tin**.
29. Pumpkin and squash	M-80	2½-10	1.25 tin	1.25 tin*.
30. Soups, limited to the following kinds of soup, which shall contain not less than the specified percentage, by weight, of dry solids from fresh unfrozen products listed in Schedule I or Schedule II. Chicken, chicken gumbo, chicken noodle, gumbo creole, consommé, and bouillon—6 percent. Tomato, asparagus, spinach, and fresh green pea—7 percent. Clam or fish chowders—8 percent. Scotch broth, vegetable, vegetable-vegetarian, pepper pot, ox tail, mock turtle, country style chicken, and corn chowder—10 percent. Beef and vegetable beef—12 percent.	60% 1942	1 picnic	1.25 tin	1.25 tin*.
31. Spinach, and other green leafy vegetables limited to beet, collard, dandelion, kale, mustard, poke, and turnip greens.	80% 1942	2½-10	1.25 tin	1.25 tin*.
32. Tomatoes	Unlimited	2-2½-10	1.25 tin	1.25 tin.
33. Tomato paste, from fresh tomatoes, containing not less than 25% (percent) by weight, dry tomato solids.	Unlimited	2½-10	1.25 tin	1.25 tin*.
	125% 1942 pack of fire 6Z.	5 gal. reusable	1.25 tin	1.25 tin.
		6Z	1.25 tin	1.25 tin*.
34. Tomato pulp or puree, from fresh tomatoes, containing not less than 10.7 percent (specific gravity 1.045) or more than 25 percent by weight, dry tomato solids.	Unlimited	2-2½-10	1.25 tin	1.25 tin*.
		5 gal. reusable	1.25 tin	1.25 tin.
	125% 1942 pack of fire 1 picnic.	1 picnic	1.25 tin	1.25 tin*.

SCHEDULE I—FOOD CANS—Continued

Product	Packing quota	Can sizes	Can materials	
			Body	Ends
VEGETABLES AND VEGETABLE PRODUCTS—continued				
35. Tomato sauce, from fresh tomatoes, including spaghetti sauce, containing not less than 8.7 percent (specific gravity 1.037) by weight, dry tomato solids, and not less than 10.0 percent (specific gravity, 1.042) by weight, total dry solids, salt free. In addition to salt, the contents may contain pepper, spice oils, and other flavoring ingredients.	Unlimited 125% 1942 pack of sizes 8Z and 1 picnic.	2-10 5 gal reusable 8Z—1 picnic	1.25 tin 1.25 tin 1.25 tin	1.25 tin*. 1.25 tin. 1.25 tin*.
36. Tomato catsup, from fresh tomatoes, not less than 25 percent, (specific gravity 1.11) by weight, total dry solids.	M-86	2½-3-cyl-10	1.25 tin	1.25 tin*.
37. Tomato juice	Unlimited	2-3 cyl-10	1.25 tin	1.25 tin*.
NOTE.—When required for packing other products, tomato paste, tomato pulp or puree, tomato sauce, and tomato juice may be repacked from reusable cans, 5 gal. or larger.				
FISH AND SHELLFISH				
(Processed, and in hermetically sealed cans)				
38. Clams, soft, hard, or razor	Unlimited	½ flat (307 x 201.25)—1 picnic (211 x 400)—1 tall (301 x 411)—2 (307 x 409)—10 (603 x 700).	1.25 tin*	1.25 tin*.
39. Crabmeat	Unlimited	½ flat (307 x 201.25)	1.25 tin*	1.25 tin*.
40. Fish flakes. Dried fish flakes not to be packed.	Unlimited	300 (300 x 407)-2 (307 x 409)	1.25 tin*	1.25 tin*.
41. Fish livers and fish liver oils	Unlimited	5 gal. reusable	1.25 tin	1.25 tin.
42. Fish roe	Unlimited	300 (300 x 407)	1.25 tin*	1.25 tin*.
43. Herring, Atlantic Sea, by whatever name known including sardines.	Unlimited	¾ Drawn (304 x 508 x 105)-¾ three piece (308 x 412 x 112)-300 (300 x 407) ¼ drawn (300.5 x 404 x 014.5)		
Packed in oil			1.25 tin*	1.25 tin*.
Packed in mustard or tomato sauce			1.25 tin	1.25 tin.
44. Herring, Pacific	Unlimited	1 tall (301 x 411)	1.25 tin*	1.25 tin*.
45. Herring, river (alewives)	Unlimited	300 (300 x 407)-2 (207 x 409).	1.25 tin*	1.25 tin*.
46. Mackerel	Unlimited	300 (300 x 407)	1.25 tin*	1.25 tin*.
47. Menhaden	Unlimited	300 (300 x 407)	1.25 tin*	1.25 tin*.
48. Mullet	Unlimited	300 (300 x 407)	1.25 tin*	1.25 tin*.
49. Mussels	Unlimited	1 picnic (211 x 400)-2 (307 x 409)-10 (603 x 700)	1.25 tin*	1.25 tin*.
50. Oysters. No. 1 picnic cans shall contain not less than 7½ ounces of oysters by cut-out drained weight; No. 2 cans 14 ounces; and other permitted size cans shall contain a fill correspondingly proportionate to the No. 1 picnic can.)	Unlimited	1 picnic (211 x 400) 1 tall (301 x 411)-2 (307 x 409).	1.25 tin*	1.25 tin*.
51. Pilchards, by whatever name known including sardines.	Unlimited	8z short (211 x 300)-½ oblong (308 x 508 x 103)-300 (300 x 407)-1 oval (607 x 406 x 108).		
Packed in oil			1.25 tin*	1.25 tin*.
Packed in mustard or tomato sauce			1.25 tin	1.25 tin.
52. Salmon	Unlimited	½ flat (307 x 200.25) (307 x 201.25)-1 flat (401 x 210.5) (401 x 211) 1 tall (301 x 411).	1.25 tin*	1.25 tin*.
53. Shad	Unlimited	300 (300 x 407)	1.25 tin*	1.25 tin*.
54. Shrimp	Unlimited	1 picnic (211 x 400) 5 (502 x 510).	1.25 tin*	1.25 tin*.
55. Squid	Unlimited	300 (300 x 407)	1.25 tin*	1.25 tin*.
56. Tuna, bonito, and yellowtail	Unlimited	½ tuna (307 x 113)-1 tuna (401 x 205.5)-4 lb. tuna (603 x 408).	1.25 tin*	1.25 tin*.
DAIRY PRODUCTS				
57. Condensed Milk, as defined by the Federal Security Administrator, Federal Register, July 2, 1940, § 18.525, page 2444 and § 18.530, page 2445, as amended, Federal Register, August 8, 1941, pages 3973 and 3974.	100% 1942	15 oz	1.25 tin	1.25 tin.
58. Evaporated milk, as defined by the Federal Security Administrator. Federal Register, July 2, 1940, § 18.520, page 2444.	Unlimited 90% 1942	10 (8 lb) 6 oz.-14½ oz	1.25 tin 1.25 tin	1.25 tin. 1.25 tin.

During 1943 a person's pack of evaporated milk in 6 oz. cans shall not exceed 80% of his 1942 pack of 6 oz. cans.

SCHEDULE II—FOOD CANS

(1) Packing quotas specified in this Schedule II indicate permitted packs of the respective products listed, for all purposes except for the Army, Navy, Marine Corps, Maritime Commission, War Shipping Administration of the United States, or for any agency of the United States purchasing for a foreign country pursuant to the Act of March 11, 1941, entitled "An Act to Promote the Defense of the United States" (Lend-Lease Act). While restrictions pertaining to can sizes and can materials are applicable to such cans, cans used for packing the respective products listed shall be in addition to the specified quotas, when delivered pursuant to a letter of intent approved by, or a contract or purchase order negotiated with or for, any of the foregoing agencies. The word "none" indicates that no cans shall be used for packing the applicable product except for the above-mentioned agencies. When determining a quota for packing a product listed in this Schedule II, cans packed during the base period (1942) for the above-mentioned agencies shall be excluded.

(2) All persons manufacturing cans shall, to the greatest extent available, use 0.40 tinplate wherever the single asterisk appears; and chemically treated blackplate wherever the double asterisk appears. All persons using cans marked with the asterisk, are hereby required to accept from the manufacturer making delivery, to the greatest extent available up to 50 percent of the delivery, cans made as specified of 0.40 tinplate wherever the single asterisk appears; and cans made as specified of chemically treated blackplate wherever the double asterisk appears.

Product	Packing quota	Can sizes	Can materials	
			Body	Ends
MEATS AND MEAT PRODUCTS (Processed, and in hermetically sealed cans)				
1. Bacon	None	14 lb.	1.25 tin*	1.25 tin.**
2. Beef, veal, mutton, and pork; corned, roast, or boiled, and containing not less than 85 percent meat, by cooked weight.	None			
Cans with all seams soldered		Any size	1.25 tin	1.25 tin.
Cans with only side seams soldered		Any size	1.25 tin*	1.25 tin.**
3. Brains	100% 1942	10½ oz.	1.25 tin*	1.25 tin.**
4. Chili con carne, when packed without beans and containing not less than 50 percent meat, by uncooked weight, exclusive of added tallow.	None	300 (300 x 407)	1.25 tin*	1.25 tin.*
5. Meat loaf, containing not less than 90 percent meat, by uncooked weight, and no added water. When packed as a chopped product, meat loaf may contain not more than 10 percent of the following ingredients: cereal, whole milk, eggs, and seasoning.	None	7 oz.	1.25 tin*	1.25 tin.**
6. Meat spreads, including ham, tongue, liver, beef, and sandwich spreads. When packed as a spread, the chopped product shall contain not less than 65 percent meat, by cooked weight, with added cereal or other products. When packed as deviled ham or deviled tongue, the product shall consist of chopped meat without added cereal or other products.	None	3 oz.	1.25 tin*	1.25 tin.**
7. Sausage in casings, containing no cereal or similar substance, and not to exceed 10 percent added water, by weight, except pork sausage, which may be prepared with not to exceed 3 percent added water, by weight.				
Vienna Sausage	None	4 oz.	1.25 tin*	1.25 tin.**
Sausage in oil, lard or rendered pork fat	None	No. 5	1.25 tin*	1.25 tin.**
8. Bulk sausage meat, containing not to exceed 3½ percent cereal, and not to exceed 3 percent added water, by weight.	None	24 oz.	1.25 tin*	1.25 tin.**
9. Tongue, whole	None	6 oz.	1.25 tin*	1.25 tin.**
10. Turkey, boned, and chicken, boned	None	1 lb.	1.25 tin*	1.25 tin.**
11. Chopped luncheon meats, consisting of chopped, seasoned meat with not to exceed 3 percent added water, by weight.	None	12 oz.	1.25 tin*	1.25 tin.**
12. Potted meat, consisting of chopped meat or by-products of meat, without added cereal or similar substance, and labeled as a potted or deviled meat product.	100% 1942	3¼ oz.	1.25 tin*	1.25 tin.**
MISCELLANEOUS FOODS				
13. Baby foods, limited to: Fruits, vegetables, meat products and cereals, pureed. Potatoes and cereal products may be used only in combination with other permitted products, and the potato and cereal content in any combination shall not exceed 12 percent, by weight. Dried prunes may be included and frozen fruits and vegetables may be used; provided, that no person shall use for packing pureed baby foods more than 35 percent, by weight, of the frozen fruits and vegetables which he used for this purpose during 1942.	100% 1942	202 BF (202 x 214)	1.40 tin	1.40 tin.
Milk formulas and soybean milk, liquid	100% 1942	14½ oz.	1.25 tin	1.25 tin.
Milk formulas, dry or powdered	100% 1942	1 lb.	0.40 tin	CTB.
No person shall pack any milk formulas unless he packed the product in substantially the same form in 1942.				
14. Dehydrated vegetables	None	10	0.40 tin	CTB.
		5 gal.	0.40 tin	0.40 tin.
15. Grape juice and grape pulp	100% 1942	5 gal. reusable	1.40 tin	1.40 tin.
16. Citrus pulp and citrus peel	100% 1942	5 gal. reusable	1.25 tin	1.25 tin.
17. Honey	100% 1942 pack of size 60 lb.	60 lb. reusable	1.25 tin	1.25 tin.
18. Goat's milk	100% 1942	14½ oz.	1.25 tin	1.25 tin.
19. Milk, skimmed, dry or powdered	None	50 lb.	0.40 tin	0.40 tin.
20. Milk, whole, dry or powdered	100% 1942	1 lb.-2½ lb.-5 lb.	0.40 tin	0.40 tin.**

SCHEDULE II—FOOD CANS—Continued

Product	Packing quota	Can sizes	Can materials	
			Body	Ends
21. Special food products; limited to foods other than usual table foods. No person shall pack any special food product unless he packed the product in substantially the same form in 1942, and unless he obtains prior permission upon application to the War Production Board.	See Product column.			

SCHEDULE III—NON-FOOD CANS

(1) Packing quotas specified in this Schedule III indicate permitted packs of the respective products listed, for all purposes except for the Army, Navy, Marine Corps, Maritime Commission, War Shipping Administration of the United States, or for any agency of the United States purchasing for a foreign country, pursuant to the Act of March 11, 1941, entitled "An Act to Promote the Defense of the United States" (Lend-Lease Act). While restrictions pertaining to can sizes and can materials are applicable to such cans, cans used for packing the respective products listed shall be in addition to the specified quotas, when delivered pursuant to a letter of intent approved by, or a contract or purchase order negotiated with or for, any of the foregoing agencies. The word "none" indicates that no cans shall be used for packing the applicable product except for the above-mentioned agencies. When determining a quota for packing a product listed in this Schedule III, cans packed during the base period (1942) for the above-mentioned agencies shall be excluded.

(2) Whenever blackplate is specified for making the body or ends of a can for packing a product listed in this Schedule III, Special Coated Manufacturers' Terneplate, may be substituted for making any part or fitting of the can which is required to be soldered.

(3) No compound containing crude rubber, latex, or synthetic rubber as defined in Order M-15-b, shall be used in the manufacture of cans for packing any product listed in this Schedule III.

Product	Packing quota	Can sizes	Can materials	
			Body	Ends
1. Abrasives, and grinding and buffing compounds. Not to be packed dry.	100% 1942	Any size	Blackplate	Blackplate.
2. Acid nitro-hydrochloric (outer container)	100% 1942	1 lb	Blackplate	Blackplate.
3. Bee feeder cans, friction top, for use in shipping bees.	100% 1942	2-2½-3	0.50 tin	CTB.
4. Benzol, naphtha, toluene, and xylene	100% 1942	1 gal	SCMT	Blackplate.
5. Blood plasma	Unlimited	Any size	0.50 tin	CTB.
6. Calcium carbide	100% 1942	2 lb.–10 lb	Blackplate	Blackplate.
7. Calcium cyanide	100% 1942	1 lb.–2½ lb	SCMT	Blackplate.
8. Calcium hypochlorite, Grade A	100% 1942	3¾ lb.–5 lb	SCMT	Blackplate.
9. Carbon bisulfide	100% 1942	1 lb	SCMT	Blackplate.
10. Cements and dressings, limited to belting, furnace, linoleum, pipe joint, and radiator. Not to be packed dry.	100% 1942	1 qt.–1 gal	Blackplate	Blackplate.
11. Cements, rubber, solvent or latex	100% 1942	1 qt.–1 gal	Blackplate	Blackplate.
12. Chlorpicrin, Bromacetone, Monochloroacetone, and acrolein.	100% 1942	1 lb	SCMT	Blackplate.
13. Chloroform and ether	100% 1942	Any size	1.25 tin	1.25 tin.
14. Chromic acid (outer container)	100% 1942	1 lb	Blackplate	Blackplate.
15. Fire extinguisher fluid, limited to chlorinated hydrocarbon type.	100% 1942	1 qt.–1 gal	SCMT	SCMT.
16. Gasket assembling compounds	100% 1942	1 qt.–1 gal	Blackplate	Blackplate.
17. Glues and adhesives, liquid	100% 1942	1 qt.–1 gal	SCMT	SCMT.
18. Grain fumigant, liquid	100% 1942	1 gal.–5 gal	SCMT	SCMT.
19. Graphite, with liquid content	100% 1942	1 qt.–1 gal	Blackplate	Blackplate.
20. Greases, lubricating	100% 1942	10 lb.–25 lb	Blackplate	Blackplate.
21. Inks, printing, duplicating and lithographing. Slip cover style cans of sizes based upon cans which hold the indicated weights of water.	50% 1942	8 oz.–12 oz., 1 lb.–2 lb., 5 lb.–10 lb., 25 lb.–50 lb.	Blackplate	Blackplate.
22. Lye, and drain cleaners. Until June 30, 1943.	50% 1942	13 oz	Blackplate	Blackplate.
23. Toilet bowl cleaners. Until June 30, 1943.	50% 1942	10 oz	Blackplate	Blackplate.
24. Nicotine sulphate	100% 1942	5 lb	1.50 tin	1.50 tin.
25. Nitric acid, fuming (outer container)	100% 1942	1 lb	Blackplate	Blackplate.
26. Oils, essential, distilled or cold pressed	100% 1942	1 qt	0.50 tin	0.50 tin.
27. Oils, transformer	100% 1942	5 gal	0.50 tin	0.50 tin.
28. Paints, copper bottom or antifouling	100% 1942	1 gal	1.25 tin	1.25 tin.
29. Paints:— Oil or oleoresinous, ready mixed, semi-paste, including but not limited to white lead in oil and colors in oil. Pigmented lacquers.	Until February 15, 1943, blackplate ends for 1 gal. fiber-bodied cans. From January 1, 1943 to February 15, 1943, a person may use a number of 1 gal. fiber bodied cans sufficient to pack 10 percent of the volume (gallonage) of the paints listed in this Item 29, which he packed in all sized cans during the calendar year of 1942.			
30. Phosphorus	100% 1942	1 lb	SCMT	SCMT.
31. Shoe polish, leather dressing, and saddle soap. Until March 31, 1943.	25% 1942	Any size	Blackplate	Blackplate.
32. Soap, paste	100% 1942	3 lb	Blackplate	Blackplate.
33. Sodium and potassium metals	100% 1942	1 lb	SCMT	Blackplate.
34. Sodium peroxide (outer container)	100% 1942	1 oz	Blackplate	Blackplate.
35. Soldering pastes and boiler sealing compounds.	100% 1942	Any size	Blackplate	Blackplate.
36. Dangerous chemicals, for shipment by Express, when a metal can is required by Interstate Commerce Commission Regulations and no alternate package is permitted.	100% 1942	Any size	Blackplate	Blackplate.

[F. R. Doc. 42-13073; Filed, December 9, 1942; 4:05 p. m.]

PART 1084—CANNED AND PROCESSED FOODS

[Conservation Order M-86, as amended December 9, 1942]

1. The designation of Part 1084 ("Canned Foods") is amended to read "Canned and Processed Foods."

2. Section 1084.1 *Conservation Order M-86* is amended to read as follows:

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of materials used in canning and processing foods for defense, and the following order is deemed necessary and appropriate in the public interest and to promote the national defense:

§ 1084.1 *Conservation Order M-86*—(a) *Applicability of priorities regulations.* This order and all transactions affected thereby are subject to all applicable provisions of the War Production Board priorities regulations, as amended from time to time.

(b) *Definitions.* For the purposes of this order:

(1) "Canner" shall mean any person engaged in the business of canning foods in hermetically sealed metal or glass containers and sterilizing the same by the use of heat.

(2) "Processor" shall mean any person other than a canner engaged in the commercial processing of foods to produce a frozen, dried, pickled, preserved, or otherwise non-perishable product.

(3) "Pack" shall mean the total amount (by weight unless otherwise specified) of all grades of any particular food canned by any canner or processed by any processor during any packing season, or during a crop year or calendar period specified by the Director General for Operations as a quota period.

(4) "Government agency" shall mean any officer, board, agency, commission, or government owned or government controlled corporation of the United States specifically designated by the Director General for Operations.

(c) *Restrictions on canners and processors.* (1) Each canner and each processor shall set aside for the requirements of government agencies such canned or processed foods packed by him as the Director General for Operations may from time to time order, without regard to previously existing contracts. All such canned or processed foods so set aside shall, unless and until released, be held for allocation to any government agency by the Director General for Operations. Orders to set foods aside pursuant to this paragraph (c) (1) may be by general supplementary order or by written notice by the Director General for Operations to the individual canner or processor. There shall not be calculated as part of the foods required to be set aside by this paragraph, foods delivered to any government agency when not so allocated to such agency by the Director General for Operations.

(2) Canned or processed foods required to be set aside for governmental

requirements by any other order of the Director General for Operations in the M Series, shall not be required to be set aside by this order.

(3) The Director General for Operations may allocate canned or processed foods to any government agency by specifically designating such agency as the authorized purchaser thereof, either by letter to the agency, by letter to the canner or processor, or by naming such agency in a general supplementary order. The Director General for Operations will allocate foods pursuant to this order only to the Army or Navy of the United States, the Marine Corps, the Coast Guard, the United States Maritime Commission, the War Shipping Administration, the Panama Railroad, the Treasury of the United States, the Coast and Geodetic Survey, the Veterans' Administration, and any agencies of the United States Government for supplies to be delivered to or for the account of the government of any country pursuant to the act of March 11, 1941, entitled "An Act to Promote the Defense of the United States" (Lend-Lease Act), and any other agency when the Director General for Operations shall find that allocation to such agency is directly essential to the war effort.

(4) If he determines that any canned or processed foods set aside pursuant to this order are not required for government agencies, the Director General for Operations may release such canned or processed foods at any time and may so notify the canner or processor, or he may delegate authority to release such foods to the agency to which he has allocated them.

(5) The Director General for Operations may issue specifications at any time as to processing, packing, containers, container treatment, can marking, labeling, boxing, and strapping.

(d) *Certificates and reports relating to the cans covered by this order*—(1) *Certificates.* Each canner who purchases any cans to pack any food for governmental use pursuant to this order—whether such purchase is by contract or on open account order—shall furnish to the can manufacturer, from whom he buys, a certificate, signed by an authorized official, in substantially the form attached hereto as "Exhibit A", which shall constitute a certification to the War Production Board that such canner is familiar with the terms of this order (in its present form or as it may be amended from time to time), and that, during the life of this order, he will not use any cans purchased from such can manufacturer in violation of its terms. Only one such certificate covering all present and future purchases from a given can manufacturer, need be furnished by a canner to that can manufacturer but no can manufacturer shall be entitled to rely on any such certificates if he knows, or has reason to believe it to be false.

(2) *Reports.* Each canner and each processor shall, within 15 days after he has completed a seasonal pack, or in the instance of a non-seasonal product, at such times as may be prescribed, mail to or file with the War Production Board a report thereof in such form as may be prescribed from time to time by the Director General for Operations. Each canner and each processor shall file such additional reports as the War Production Board may prescribe for the purpose of effective administration of this order.

(e) *Inspection and grading.* Any canned or processed foods required to be set aside under this order shall be subject to inspection and grading at any time by the Director General for Operations or by any person or government agency thereto authorized by him.

(f) *Appeals.* Any appeal from the provisions of this order shall be made by filing a letter in triplicate, referring to the particular provisions appealed from and stating fully the grounds of the appeal.

(g) *Records.* All persons affected by this order shall keep and preserve for not less than two years accurate and complete records concerning inventories, purchases, production and sales.

(h) *Audit and inspection.* All records required to be kept by this order or by any rule, regulation or order of the Director General for Operations shall, upon request, be submitted to audit and inspection by duly authorized representatives of the War Production Board.

(i) *Communications to War Production Board.* All reports required to be filed hereunder and all communications concerning this order shall, unless otherwise directed, be addressed to: War Production Board, Washington, D. C. Ref.: M-86.

(j) *Violations.* Any person who wilfully violates any provision of this order or who wilfully furnishes false information to the Director General for Operations in connection with this order, is guilty of a crime and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using material under priority control and may be deprived of priorities assistance by the Director General for Operations.

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 9th day of December 1942.

ERNEST KANZLER,
Director General for Operations.

EXHIBIT A—CANNER'S CERTIFICATE

Certificate required by paragraph (d) (1) of Conservation Order M-86, as amended. One copy of this certificate is to be delivered to each can manufacturer from whom the canner purchases cans and is to cover all purchases present and future, so long as such Conservation Order, in its present form or as it may be amended from time to time, remains in effect.

(Applicant's Name)

(Applicant's Address) (Date)

In accordance with paragraph (d) (1) of Conservation Order M-86 of the War Production Board, to conserve the supply and direct the distribution of certain canned foods, the undersigned hereby certifies—and this shall constitute a certification to the War Production Board—that the undersigned applicant is familiar with the terms of said Conservation Order M-86, and any and all amendments thereto, and that said applicant will not use any cans purchased from

---
(Name of Can Manufacturer)

(Address of Can Manufacturer)

in violation of the terms of said order and amendments.

(Legal Name of Applicant)
By ---

(Title of Official Reporting)

Section 35A of the U. S. Criminal Code (18 U.S.C. 80) makes it a criminal offense to make a false statement or representation to any department or agency of the United States as to any matter within its jurisdiction.

[F. R. Doc. 42-13075; Filed, December 9, 1942; 4:06 p. m.]

PART 1084—CANNED AND PROCESSED FOODS

[Supplementary Order M-86-e]

§ 1084.6 *Supplementary Order M-86-e*—(a) *Quota restrictions.* Pursuant to Order M-86, which this order supplements, it is hereby ordered that each canner shall set aside to be delivered for the requirements of Government agencies, a quota of canned fruits and vegetables packed by him at any time in the calendar year 1943 or, when specified, in 1942-43. The quota to be set aside from a canner's pack of any product listed in Column A of Tables I and II, attached hereto, packed during the quota period for that product, shall be computed by applying the percentage in Column B against the canner's total pack in the base period, including his pack both in metal and glass containers. If the type, style, variety or grade of any such fruit or vegetable is described in Tables I and II, such quota shall be in the type, style, variety and grade described, but other types, styles, varieties or grades shall be substituted to the extent that those specified in Tables I and II are not packed.

(b) *Definition of quota period.* With the exceptions hereinafter listed, the quota period is 1943. In case of grapefruit, grapefruit juice, orange juice, and orange juice and grapefruit juice blended, the quota period is August 1, 1942 to July 31, 1943, in Florida, Texas, and Arizona, and December 1, 1942 to November 30, 1943, in California.

(c) *Definition of base period.* The base period is in all cases the corresponding twelve-month period one year prior to the quota period.

(d) *Applicability of order.* Fruits and vegetables not listed in Tables I and II are not required to be set aside. Fruits and vegetables packed in the Hawaiian Islands must be set aside as prescribed by this order, but this order does not apply to fruits and vegetables packed in other territories and possessions of the United States.

(e) *Provisions applicable when whole pack not set aside for Government.* The

following provisions apply whenever any product may be packed for nongovernmental requirements as well as for governmental requirements: To the extent that the canner's production of the first preference grade of such fruit or vegetables specified in Column D is sufficient, at least two-thirds of the quota, but preferably the entire quota, shall be set aside from such grade. To the extent that the quantity so set aside does not fill his quota, the canner shall set aside sufficient of his production of the second preference grade, if any, specified in Column E to complete his quota. To the extent that the quantities so set aside out of both first and second preference grades do not fill his quota, the canner shall set aside sufficient of his production of the third preference grade, if any, specified in Column F to complete his quota.

If a canner packs both in tinplate and glass, insofar as the above grade standards permit the quota shall be set aside from the part packed in tinplate, and from the part packed in glass only when the part packed in tinplate is insufficient.

To the extent possible and insofar as compliance with the above grade requirements permits, at least two-thirds of the quota, but preferably the entire quota, shall be set aside in the largest can size specified in Column G. The balance shall be reserved in the largest can sizes available in the order of preference specified in Column G.

(f) *Reports.* The report prescribed by paragraph (d) (2) of Order M-86 shall be given on Form PD-343, revised. The report shall be filed within fifteen days of the completion of the pack.

(g) *Purchase and inspection.* Until further notice, the Army of the United States is hereby allocated the quotas prescribed by this order, to purchase for its own account and the account of other government agencies named in paragraph (c) (3) of Order M-86, whenever it has agreed with such other agencies to do so. The Army of the United States and the Agricultural Marketing Administration in the Department of Agriculture are also authorized to inspect and grade such canned foods pursuant to paragraph (e) of Order M-86.

(h) *Effective date.* This order shall take effect on January 1, 1943.

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 9th day of December 1942.

ERNEST KANZLER,
Director General for Operations.

TABLE I.—CANNED FRUITS AND FRUIT JUICES

A	B	C	D	E	F	G
Product	Percentage of Base period pack	Type, style, variety (sequence does not denote preference)	Grade: First preference	Grade: Second preference	Grade: Third preference	Can sizes (sequence denotes preference)
Apples	63	Heavy pack	Standard			10.
Applesauce	41		Fancy	Standard		10-2.
Apricots	66	Halved, unpeeled	Choice	Standard (Fancy not desired)	Pie or water pack.	10-2½.
Berries[2]	50		Water pack (Syrup pack not desired)			10.
Blueberries	100		Water pack (Syrup pack not desired)			10.
Cherries, RSP	70	Red sour pitted (water pack).	Standard			10-2.
Cherries, sweet	65	Light or dark; pitted or unpitted.	Choice	Top standard [1]	Fancy	10-2½-2.
Figs	100	Kadota	Choice			10.
Fruit cocktail	71		Choice	Fancy		10-2½.
Grapefruit	19	Segments	Fancy	Choice	Standard	2.
Grapefruit juice	48	Sweetened, unsweetened.	Fancy	Standard		10-3 cyl.-2.
Orange juice	21	Sweetened, unsweetened.	Fancy	Standard		10-3 cyl.-2.
Orange and grapefruit juice blended.	100	Sweetened, unsweetened (50% orange) (50% grapefruit).	Fancy	Standard		10-3 cyl.-2.
Peaches	63	Yellow clingstone, halved or sliced.	Choice	Top standard [1]		10-2½.
	----	Freestone (except California), yellow-halved or sliced.	Choice	Fancy		10-2½.
Pears	65	Bartlett, halved	Choice	Top standard [1]	Fancy	10-2½.
Pineapple	70	Sliced, crushed, chunks, tidbits, (except cocktail tidbits).	Fancy	Standard		10-2½.
Pineapple juice	26		Fancy			10-3 cyl.-2.

[1] Top standard means 70-74 inclusive as defined in terms of U. S. grade.
[2] Blackberries, boysenberries, loganberries, youngberries only. Percentage applies to combined pack of these four varieties.

TABLE II.—CANNED VEGETABLES

A	B	C	D	E	F	G
Product	Percentage of base period pack	Type, style, variety (sequence does not denote preference)	Grade: First preference	Grade: Second preference	Grade: Third preference	Can sizes (sequence denotes preference)
Asparagus	49	All green	Fancy cut	Fancy spear		10-2.
Beans, lima	56	Fresh	Extra standard.	Fancy	Standard	10-2.
Beans, snap	58	Green, wax—cut	Extra standard.	Top standard [2]	Fancy	10-2½-2.
Beets	84	Cut, quartered, diced, sliced.	Fancy	Top standard [1]		10-2½-2.
Carrots	100	Diced	Fancy	Top standard [1]		10-2½-2.
Corn, sweet [3]	42	White, yellow—cream style, whole kernel.	Fancy	Extra standard.	Top standard [2]	10-2.
Peas	48	Alaska—3, 4, sieve; sweet—3 sieve and larger, ungraded.	Extra standard.	Top standard [2]	Fancy	10-2.
Pumpkin or squash.	51		Fancy	Top standard [1]		2½.
Spinach	48		Fancy	Top standard [1]		10-2½.
Tomatoes	49		Extra standard.	Top standard [2]	Fancy	10-2½-2.
Tomato catsup	61		Fancy 29%-32% solids.	Fancy 33% solids or over.	Fancy 25%-28% solids.	10-3 cyl.- 2½-2; 14 oz. glass or larger.
Tomato juice	43		Fancy			10-3 cyl-2.
Tomato puree	71	Heavy (minimum specific gravity—1.045).	Fancy			10.
Tomato paste	40		Fancy			10-2½-2.

[1] Top Standard means 80-84 inclusive as defined in terms of U. S. grades.
[2] Top Standard means 70-74 inclusive as defined in terms of U. S. grades.
[3] Full inside enamel cans required. Number 10 cans to be used for whole kernel only.

[F. R. Doc. 42-13074; Filed, December 9, 1942; 4:06 p. m.]

PART 3134—DAIRY PRODUCTS

[Amendment 1 to Conservation Order M-259]

Paragraph (c) of § 3134.1 *Conservation Order M-259* [7 F.R. 9811] is hereby amended by the addition of the following sentence at the end thereof:

In addition, a producer may deliver to or for any person or medical institution cream of such milk fat content and in such quantities as may be necessary for supervised medical treatment of the person or the institution's patients, provided the producer is supplied with a written statement from the person's physician, or, in the case of a medical institution, from a responsible official thereof, specifying the milk fat content and the daily quantity of cream required and certifying as to the necessity of such cream for supervised medical treatment.

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 9th day of December, 1942.

ERNEST KANZLER,
Director General for Operations.

[F. R. Doc. 42-13079; Filed, December 9, 1942; 5:02 p. m.]

PART 1035—GLYCERINE

[General Preference Order M-58, as Amended Dec. 10, 1942]

Section 1035.1 *General Preference Order M-58* is hereby amended to read as follows:

§ 1035.1 *General Preference Order M-58 as Amended December 10, 1942*—(a) *Definitions.* (1) "Glycerine" means any and all concentrations of glycerol, from whatever source derived and whether crude or refined.

(2) "Producer" means any person engaged in the production of glycerine and includes any person who has glycerine produced for him pursuant to toll agreement and any person who on splitting any fat or oil is entitled to the glycerine resulting therefrom. The term does not include any refiner of glycerine.

(3) "Refiner" means any person engaged in the refining of glycerine.

(4) "Distributor" means any person who has purchased or purchases glycerine for purposes of resale.

(5) "Base period" means the calendar year 1940.

(b) *Restrictions on deliveries and use.* (1) Subject to paragraph (c) hereof, no producer, refiner or distributor shall deliver or use glycerine, and no person shall accept delivery of glycerine from a producer, refiner or distributor, except as specifically authorized or directed by the Director General for Operations.

(2) Authorizations or directions with respect to deliveries to be made or accepted in each month will so far as practicable be issued by the Director General for Operations prior to the commencement of such month, but the Director General for Operations may at any time at his discretion and notwithstanding the provisions of paragraph (c) hereof, issue directions with respect to deliveries to be made or accepted or with respect to the use or uses which may or may not be made of material to be delivered or then on hand.

(3) Each person specifically authorized to accept delivery of glycerine shall use such material for the purpose authorized, and only for such purpose, except as otherwise specifically directed by the Director General for Operations or as provided in paragraph (b) (4) hereof.

(4) Glycerine allocated for inventory shall not be used except as specifically directed by the Director General for Operations. Glycerine allocated to fill a specified order or class of orders shall, where and to the extent that such order or class of orders is subsequently cancelled, revert to inventory.

(c) *Deliveries without specific authorizations.* No specific authorization shall be required for:

(1) Acceptance of delivery by any person, or use by any producer or refiner, in any calendar month of 50 lbs. or less of glycerine in the aggregate.

(2) Acceptance of delivery by any person, or use by any producer or refiner, in any calendar month of not more than 1150 lbs. of glycerine in the aggregate (but more than 50 lbs.): *Provided, however,* That the quantity of which acceptance of delivery may be made in any calendar month (or the quantity used in the case of a producer or refiner) shall be subject to the following additional restrictions:

(i) Where acceptance of delivery is by a hospital, clinic, research and control laboratory or other institution whose primary object is the maintenance of public health, and where the glycerine is to be consumed solely by the organization accepting delivery; no further restriction;

(ii) Where acceptance of delivery is by pharmacists for use in the individual compounding of prescriptions of doctors, dentists or veterinarians, or where acceptance of delivery is for (or use is) the manufacture of sterile solutions, ampoules, basic medicinal chemicals not in compounded form, dental impression compounds, biological preparations and embalming fluids; no further restriction;

(iii) Where acceptance of delivery is for (or use is) the manufacture of other medicinal or veterinary preparations: a further restriction to one hundred per cent of 1/12 of the quantity of glycerine used in such manufacture in the base period;

(iv) Where acceptance of delivery or use is not within subdivision (i), (ii) or (iii): a further restriction to 70 per cent of 1/12 of the quantity of glycerine used in the base period;

(v) Where the amount of which delivery may be accepted under this paragraph (c) (2) does not represent a practical shipping unit or multiple thereof, such paragraph shall not prevent the acceptance of delivery of an amount approximating such permitted quantity, *Provided,* That the difference shall in no event exceed more than one small drum (approximately 550 lbs.) and that the person accepting delivery shall in the next succeeding order or orders make appropriate adjustment.

(3) The delivery by any producer, refiner or distributor to any person who shall have filed with such producer, refiner or distributor a certificate in substantially the following form:

The undersigned purchaser hereby certifies to the War Production Board and to his supplier (1) that he is familiar with the terms of General Preference Order M-58, as amended December 10, 1942; (2) that the ------ lbs. of glycerine hereby ordered for delivery in _____, 194__, will not, (month) taking into consideration all other glycerine ordered for delivery in such month, exceed the quantity which he is permitted by said order to receive without specific authorization of the Director General for Operations; (3) that his purchase falls within paragraph (c) (1); paragraph (c) (2), subdivisions (i), (ii), (iii), (iv) [strike out inapplicable paragraph and/or subparagraph]; and (4) that he has not received any specific authorization from the War Production Board to receive or use glycerine during such month.

_____
Name of purchaser

By _____
Name of authorized official Title

(4) The delivery of crude glycerine to, or acceptance of delivery of crude glycerine by, a refiner, for refining or the refining of crude glycerine.

(d) *Prohibited use.* No person shall use or consume glycerine in the manufacture of any anti-freeze product or preparation.

(e) *Applications and reports.* (1) Each person requiring authorization to accept delivery of glycerine during any calendar month, whether for his own consumption or resale, (and each producer or refiner requiring authorization to use glycerine in any calendar month) shall file application therefor on or before the 15th day of the month preceding the month for which authorization for delivery is requested. In each case, the application shall be made on Form PD-600 in the manner prescribed therein (except that during December, 1942, the application at the discretion of the applicant may be made on Form PD-362), subject to the following special instructions:

(i) Copies of Form PD-600 may be obtained at local field offices of the War Production Board.

(ii) Five copies shall be prepared, of which four shall be forwarded to the War Production Board, Chemicals Division, Washington, D. C., Ref.: M-58, and the fifth retained as a file copy. On one of the four copies filed with War Production Board, Tables II and III shall be left blank. An applicant seeking authorization to accept delivery or use at two or more plants shall file a separate set of Form PD-600 for each plant.

(iii) In the heading, under name of chemical, specify "glycerine"; under WPB Order No. specify "M-58"; under unit of measure, specify "pounds"; under name of your company, specify name and mailing address; and specify the month

and year for which authorization for acceptance of delivery is sought. Also state in the space following "supplier with whom this order is placed" the name of your usual supplier, and also list his shipping point.

(iv) In Columns 1, 11 and 19, specify grade or grades in terms of the following:

80% soap lye crude.. High-gravity (dynamite)
88% saponification crude.... Chemically pure
Yellow distilled..... Other (describe)

(v) In Column 3, specify your primary product in terms of the following, in each case specifying the item number listed below:

1 Drugs and pharmaceuticals.
2 Explosives.
3 Synthetic resins (specify).
4 Ester gums.
5 Rubber products.
6 Gaskets and cork products.
7 Cellulose films (specify).
8 Glassine and grease-proof paper (specify).
9 Printing rollers.
10 Printing supplies (specify).
11 Textiles (printing, dyeing & finishing).
12 Leather products.
13 Adhesives (including book binding).
14 Paper other than #8.
15 Beverages, flavoring extracts, candy and gum (specify).
16 Other edible products (specify).
17 Tobacco.
18 Cosmetics and toilet preparations, dentifrices and shaving preparations (specify).
19 Chemical manufacture not elsewhere classified (specify).
20 Other class of product (specify).
21 Resale (as glycerine).
22 Inventory (see paragraph (b) (4)).

(vi) In Column 4 specify ultimate use of product (for example, if the "primary product" called for by Column 3 is "glassine and grease-proof paper", the "ultimate use of product" might be "food wrapping"), and also specify in each case whether your customer is Army, Navy, other government agency, Lend-Lease, or commercial customer. If a primary product made has more than one ultimate use, indicate approximate percentage applicable to each use.

(vii) In Columns 5, 6, 7, and 8 specify pounds in each preference rating group.

(viii) In Column 10, specify your average monthly use of glycerine in 1940 in each class of use for which authorization to accept delivery (or use) is sought.

(ix) Leave blank Table IV.

(x) In each case where the application on Form PD-600 for authority to accept delivery of, or use, glycerine is granted, one copy of Form PD-600, signed by the Director General for Operations will be returned to the applicant. Where authorization is to accept delivery, a second copy will be sent by War Production Board to the supplier selected by War Production Board with a letter from the Director General for Operations to such supplier, authorizing delivery as indicated on such copy.

(2) Each person (other than a refiner) who as of December 1, 1942 owned more than 1150 lbs. of glycerine and who shall not have applied for acceptance of delivery of glycerine for January, 1943, shall file with War Production Board on or before the 15th day of December, 1942, Form PD-600 (a single copy) with Table II completely filled out.

(3) Each producer, refiner or distributor shall file with the War Production Board on or before the 15th day of each month beginning December 15, 1942, one copy of PD-363A (revised).

(4) The Director General for Operations may require each person affected by this order to file such other reports as may be prescribed, and may issue other and further directions to any such person with respect to preparing and filing Forms PD-600 and PD-363A (revised).

(f) *Notification of customers.* Each supplier shall notify his regular customers, as soon as possible, of the requirements of this order, but failure to receive such notice shall not excuse any person from complying with the terms hereof.

(g) *Miscellaneous provisions*—(1) *Applicability of priorities regulations.* This order and all transactions affected hereby are subject to all applicable provisions of War Production Board priorities regulations, as amended from time to time.

(2) *Appeals.* Any appeal from the provisions of this order shall be made by filing a letter in triplicate, referring to the particular provision appealed from and stating fully the grounds of the appeal.

(3) *Violations.* Any person who wilfully violates any provision of this order, or who, in connection with this order, wilfully conceals a material fact or furnishes false information to any department or agency of the United States is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using, material under priority control and may be deprived of priorities assistance.

(4) *Communications to War Production Board.* All reports required to be filed hereunder, and all communications concerning this order, shall, unless otherwise directed, be addressed to: War Production Board, Chemicals Division, Washington, D. C. Ref.: M-58.

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 10th day of December 1942.

ERNEST KANZLER,
Director General for Operations.

[F. R. Doc. 42-13087; Filed, December 10, 1942; 11:03 a. m.]

PART 1055—WOOL

[General Conservation Order M-73 as Amended Dec. 10, 1942]

Section 1055.1, *Conservation Order M-73* for the period August 3, 1942, to January 31, 1943 is hereby amended to read as follows:

§ 1055.1 *Conservation Order M-73 as amended December 10, 1942*—(a) *Applicability of priorities regulations.* This order and all transactions affected thereby are subject to all applicable provisions of the priorities regulations of the War Production Board, as amended from time to time.

(b) *Curtailment of use of wool for nondefense orders for period August 3, 1942, through July 31, 1943.* During the period August 3, 1942, through July 31, 1943, no person shall put into process for nondefense orders any wool except as hereinafter provided.

(c) *Quota for worsted system.* Any person having a basic quarterly poundage on the worsted system shall be entitled to put into process:

(1) During the period from August 3, 1942, through January 31, 1943, an amount of wool owned by him not in excess of 25% of such basic quarterly poundage for the manufacture of fabrics and yarns of any wool content, and an additional amount of wool owned by him not in excess of 30% of such basic quarterly poundage for the manufacture of fabrics and yarns containing not more than 65% wool.

(2) During the period from February 1, 1943, through May 2, 1943, an amount of wool owned by him not in excess of 15% of such basic quarterly poundage for the manufacture of fabrics and yarns of any wool content, and an additional amount of wool owned by him not in excess of 20% of such basic quarterly poundage for the manufacture of fabrics and yarns containing not more than 65% wool.

(3) During the period from May 3, 1943, through July 31, 1943, an amount of wool owned by him not in excess of 15% of such basic quarterly poundage for the manufacture of fabrics and yarns of any wool content, and an additional amount of wool owned by him not in excess of 20% of such basic quarterly poundage for the manufacture of fabrics and yarns containing not more than 65% wool.

(d) *Quota for woolen and other systems.* Any person having a basic quarterly poundage on the woolen, cotton, felt, or any other system shall be entitled to put into process:

(1) During the period from August 3, 1942, through January 31, 1943, an amount of wool owned by him not in excess of 5% of such basic quarterly poundage for the manufacture of fabrics and yarns of any wool content, and an additional amount of wool owned by him not in excess of 25% of such basic quarterly poundage for the manufacture of fabrics and yarns containing not more than 65% wool.

(2) During the period from February 1, 1943, through May 2, 1943, an amount of wool owned by him not in excess of 2½% of such basic quarterly poundage for the manufacture of fabrics and yarns of any wool content, and an additional amount of wool owned by him not in excess of 12½% of such basic quarterly poundage for the manufacture of fabrics and yarns containing not more than 65% wool.

(3) During the period from May 3, 1943, through July 31, 1943, an amount of wool owned by him not in excess of

2½% of such basic quarterly poundage for the manufacture of fabrics and yarns of any wool content, and an additional amount of wool owned by him not in excess of 12½% of such basic quarterly poundage for the manufacture of fabrics and yarns containing not more than 65% wool.

(e) *Additional allotment of wool for use in certain knitted wear.* In addition to the amount of wool which any person may put into process pursuant to paragraphs (c) and (d) such person shall be entitled to put into process for the manufacture of machine knitting yarns suitable for making machine knitted sweaters, shawls, or underwear, an amount of wool not in excess of 10% of his basic quarterly poundage to fill orders placed with him after October 30, 1942, by manufacturers of machine knitted sweaters, shawls or underwear, or by jobbers who deal in machine knitting yarn: *Provided,* That each such order is accompanied by a certificate signed by the purchaser, or by a person duly authorized to sign in his behalf, in substantially the following form:

The undersigned hereby certifies to his vendor and to the War Production Board that he is entitled under the provisions of paragraph (e) of M-73 to purchase machine knitting yarns made from the special allotment of wool granted therein, and that the knitting yarns covered by the annexed purchase order will be put into process by him prior to January 15, 1943, and only in the manufacture of machine knitted sweaters, shawls or underwear, containing not more than 65% wool, or will be put into process by others for his account for such purposes before such date, or will be sold by him only upon the receipt of a similar certificate from his purchaser.

For the purpose of the above certificate "put into process" shall mean the first operation on knitting yarn performed by the knitter, such as dyeing, scouring, winding or knitting or otherwise, as the case may be. Persons putting wool into process pursuant to the provisions of this paragraph shall report the amount of wool so put into process in their monthly reports on Form PD-274 under the heading "Special Wool Grant, Series S."

(f) *Bonus for use of certain types of wool.* Any person shall, for each pound of wool of grades 44s and lower (including carpet wool), coarse alpaca fleece, alpaca seconds or short fleece, (unless from Arequipa), huarizo (unless from Arequipa), llama (unless from Arequipa) or pieces or locks of alpaca or llama, owned, or hereafter acquired by such person and put into process within the limits of paragraphs (c) (d) and (e), be entitled to put into process:

(1) On the worsted system, an additional two pounds of such material owned or hereafter acquired by him,

(2) On the woolen, cotton, or felt system, an additional five pounds of such material owned or hereafter acquired by him.

(g) *Quota for manufacturers of floor covering.* Notwithstanding the provisions of paragraphs (c), (d), (e), and (f) any person whose basic quarterly poundage is calculated from wool put into process for the manufacture of floor covering shall only be entitled to put into process:

(1) Amounts of wool of grades 44s and lower, fine carpet wools, coarse carpet wools, coarse alpaca fleece, alpaca seconds, or short fleece, (unless from Arequipa), huarizo (unless from Arequipa), llama, (unless from Arequipa) or pieces or locks of alpaca or llama, owned by such person, for the manufacture of wool products other than floor covering, and

(2) Amounts of coarse carpet wool for the manufacture of floor covering,

but shall be entitled to put into process during the period from August 3, 1942, through January 31, 1943, a total amount of such wools for the purposes prescribed which is not in excess of 50 per cent of such basic quarterly poundage calculated from the manufacture of floor covering; during the period from February 1, 1943, through May 2, 1943, an amount for such purposes which is not in excess of 25% of such basic quarterly poundage; and during the period from May 3, 1943, through July 31, 1943, an amount for such purposes which is not in excess of 25% of such basic quarterly poundage.

(h) *Carry-over of unused portions of quotas.* Any amounts of wool which a person may be entitled to put into process during either the period from August 3, 1942, through January 31, 1943, or the period from February 1, 1943, through May 2, 1943, pursuant to paragraphs (c), (d), (f), and (g), and which are not put into process during that period may be carried over to the following period or periods covered by this order and operate to increase the corresponding quota of such following period or periods to that extent.

(i) *Special provisions for manufacture of yarn for use in manipulated fabrics.* (1) For the purposes of paragraphs (c) and (d) the putting into process of wool for the manufacture of yarns for sale to knitters or weavers to be manufactured by them into fabrics or garments containing not more than 65% wool shall be considered as the putting into process of wool for the manufacture of such fabrics: *Provided,* That each sale of such yarn to a knitter or weaver is made only upon the receipt from such knitter or weaver of a certificate in duplicate, signed on behalf of the knitter or weaver placing such order by a duly authorized person in substantially the following form:

The undersigned hereby certifies to his vendor and to the War Production Board that the yarn covered by this purchase order will be used by the undersigned for the manufacture of fabrics or garments containing not more than 65% wool as the term is defined in Conservation Order M-73.

And provided further, That one of the duplicate certificates required for each such sale shall be filed with the War Production Board on or before the 15th day of the month following the month in which such sales were made.

(2) No knitter or weaver furnishing the certificate mentioned in subparagraph (1) of this paragraph for the purchase of yarn shall use or dispose of such yarn except in the knitting or weaving of fabrics or garments which contain not more than 65% wool.

(j) *Restrictions on use of certain types of wool and of wool content of certain products—(1) Restriction on wool content of blankets for nondefense use.* No person shall manufacture for nondefense order any blanket containing more than 65 per cent of wool.

(2) *Restrictions on use of certain wools in drapery and upholstery fabrics for nondefense use.* No person shall put into process or cause to be put into process by others for his account for nondefense order for the manufacture of any drapery or upholstery fabrics any wool other than coarse carpet wool.

(3) *Restrictions on use of certain wools in floor coverings.* No person shall put into process, or cause to be put into process by others for his account any wool other than coarse carpet wool for the manufacture of floor covering.

(4) *Restrictions on use of alpaca, huarizo and llama.* No person shall put into process any No. 1 alpaca fleece from Arequipa, Callao or Tacna, No. 1 skin Alpaca fleece from Arequipa, alpaca seconds or short fleece from Arequipa, huarizo fleece from Arequipa, or llama fleece from Arequipa, and no person shall use or process any alpaca tops, except for the manufacture of fabrics or yarn to be delivered to or for the account of the Army or Navy of the United States, the United States Maritime Commission or the War Shipping Administration, or in the manufacture of fabrics or yarns to fill orders therefor accompanied by a certificate, signed by the purchaser, or by a person duly authorized to sign in his behalf, in substantially the following form:

The undersigned hereby certifies to his vendor and to the War Production Board that the yarns or fabrics covered by the annexed purchase order will be used by him in the manufacture of material or equipment to be delivered to or for the account of the Army or Navy of the United States, the United States Maritime Commission, or the War Shipping Administration.

(k) *Defense orders filled out of inventory.* The filling of a defense order out of stocks on hand, which stocks were not manufactured on defense order, shall operate to increase the amount of wool which a person may put into process on nondefense order in the period in which such defense order is filled, to the extent of the amount of wool contained in the goods used to fill such defense order.

(l) *Assignment of preference rating for certain uniform fabrics.* Any order for fabric to be used in the manufacture of the following types of uniforms is hereby assigned a preference rating of A-10.

(1) U. S. Bureau of Customs personnel.

(2) U. S. Forest Service personnel.

(3) U. S. Immigration and Naturalization Service personnel.

(4) U. S. Post Office Department personnel.

(5) Federal, State, county, municipal or local government policemen, guards or militia.

Flying personnel with commercial airlines.

(7) Organized civilian personnel assigned to the Armed Forces of the United States.

(8) Plant and airport guards.

(9) Nurses.

Provided, however, That each such order is accompanied by a certificate in duplicate signed by the purchaser, or by a person duly authorized to sign in his behalf in substantially the following form:

The undersigned purchaser hereby represents to the seller and to the War Production Board that he is entitled to apply the preference rating indicated opposite the items shown on this purchase order, and that such application is in accordance with Priorities Regulation No. 3 as amended, with the terms of which the undersigned is familiar. The undersigned further certifies that the fabrics hereby ordered will be used by the undersigned only for the manufacture of one or more of the types of uniforms set forth in paragraph (1) of General Conservation Order M-73, or resold only for such use, and this order is therefore entitled to a preference rating of A-10.

(m) *General exceptions.* The prohibitions and restrictions of this order shall not apply to any person to the extent that such person puts wool into process for the making of wool products entirely by hand, including the spinning, and weaving of the fabrics.

(n) *Prohibition against sales or deliveries.* No person shall hereafter sell or deliver any material to any person if he knows, or has reason to believe, such material is to be used in violation of this order.

(o) *Fair distribution of products.* In making sales or deliveries of wool yarn, fabrics, styles or patterns, no person shall make discriminatory cuts in amounts or quantities in acceptance of orders or deliveries between former customers and new customers who meet such person's regularly established prices and terms, or between former customers, new customers and his own consumption of these products, or any of them.

(p) *Definitions.* For the purposes of this order

(1) "Wool" means the fiber from the fleece of the sheep or lamb, or the hair of the Cashmere goat or camel or the alpaca, llama, vicuna, and related fibers, including fine carpet wool and coarse carpet wool, but (except for the purposes of paragraph (o)) shall not include mohair, noils, waste, reprocessed or reused wool, or yarn or cloth.

(2) "Fine carpet wool" means wool which, under paragraph 1101 of the Tariff Act of 1930, may be imported free of duty for the manufacture of floor covering (but which under the terms of this order may only be used for the manufacture of wool products other than floor covering, and other than drapery and upholstery fabrics on nondefense orders) identifiable under the following names: Persian Gulf fleece, New Zealand fleece, Criolla, Joria, Thibet number one white, and Iceland wool.

(3) "Coarse carpet wool" means wool which, under paragraph 1101 of the Tariff Act of 1930, may be imported free of duty for the manufacture of floor covering, not specifically named in subparagraph (2) above.

(4) "Manufacture" means any and all processing on any system beyond the scouring operation, excepting only the carding and combing operations on the worsted system.

(5) "Put into process" means:

(i) On the worsted system, the first process of drawing after combing.

(ii) On any other system using tops, cut tops or broken tops, the first operation of cutting, breaking, picking or carding as the case may be.

(iii) On the woolen, felt, or any other system not using tops, the first step after scouring, carbonizing, dusting or similar cleaning or preparatory process.

and shall include the causing to be put into process by another for one's account.

(6) "Basic quarterly poundage" for any single system of manufacture shall mean one half of the number of pounds of wool and mohair, either kid or adult, put into process on that system by a person during the period from December 29, 1940 to June 28, 1941, both inclusive or for the period from January 1, 1941, to June 30, 1941, both inclusive, according to the method of keeping production records maintained by such person during such period. Such poundage shall be determined as follows:

(i) On the worsted system or any other system using tops, the weight of tops put into process at 15 percent moisture regain, 3¼ per cent of oil and natural fats.

(ii) On the woolen system, scoured wool and mohair, either kid or adult, at 12 per cent moisture.

(iii) On the felt or any other system, the weight of wool and mohair, either kid or adult, in the stage immediately preceding putting into process.

(q) *Appeals.* Any appeal from the provisions of this order shall be made by filing a letter in triplicate, referring to the particular provision appealed from and stating fully the grounds of the appeal.

(r) *Violations.* Any person who wilfully violates any provisions of this order, or who in connection with this order, wilfully conceals a material fact or furnishes false information to any department or agency of the United States is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using, material under priority control and may be deprived of priorities assistance.

(s) *Reports and records.* (1) Each person who puts wool into process shall file with the War Production Board, such reports or forms, setting forth the amount of wool put into process in any period, the yardage of fabrics and/or the amount of yarns produced therefrom and the fiber content of each type thereof, and such other information, as the Director General for Operations may prescribe.

(2) All persons who put wool into process shall keep and preserve such records as will clearly and adequately show their methods and amounts of consumption hereunder.

(t) *Communications to the War Production Board.* All reports required to be filed hereunder, and all communications concerning this order, shall, unless otherwise directed, be addressed to: War Production Board, Textile, Clothing and Leather Division, Washington, D. C., Reference M-73.

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 10th day of December 1942.

ERNEST KANZLER,
Director General for Operations.

[F. R. Doc. 42-13088; Filed, December 10, 1942; 11:03 a. m.]

PART 1061—PORTABLE ELECTRIC LAMPS AND SHADES

[General Limitation Order L-33, as Amended Dec. 10, 1942]

Section 1061.1 *General Limitation Order L-33* is hereby amended to read as follows:

§ 1061.1 *General Limitation Order L-33*—(a) *Definitions.* For the purposes of this order:

(1) "Portable lamp" means any detachable device (excluding lamp shades and incandescent, fluorescent or electric discharge lamps or tubes covered by Limitation Order L-28), the primary function of which is to furnish light for interior illuminating purposes by means of incandescent, fluorescent or electric discharge lamps or tubes. "Portable lamp" does not include any flashlight or other battery-operated lighting device, mechanics' lamp, industrial lamp designed specifically for use in conjunction with any industrial machine, tool or assembly bench or other similar factory equipment, or any overhead suspended fixture (whether portable or not).

(2) "Socket" means any receptacle on a portable lamp designed to receive an incandescent, fluorescent or electric discharge lamp or tube.

(3) "Lamp cord" means any insulated cord used to conduct electricity to the socket on a portable lamp.

(4) "Plug" means any device attached to a lamp cord and fitting into a fixed receptacle for the purpose of transmitting electric current through the lamp cord.

(5) "Separate switch" means any one- or two-circuit switch control which operates one or more sockets.

(6) "Lamp shade" means any shade or metal reflector designed for use with a portable lamp.

(7) "Manufacturer" means any person engaged in the business of manufacturing or assembling portable lamps or lamp shades.

(8 "Preferred order" means any purchase order, contract or subcontract for delivery of portable lamps or lamp shades to or for the account of the Army or Navy of the United States, the United

States Maritime Commission or the War Shipping Administration.

(b) *General restrictions.* (1) No manufacturer shall produce or assemble any portable lamps except in fulfillment of preferred orders.

(2) No manufacturer shall use in the production of portable lamps in fulfillment of preferred orders

(i) Any iron and steel except in sockets, separate switches, plugs, lamp cords, auxiliary ballasts, starter switches, center pipes, steel wire harps, socket covers and husks, outer tubing and casings, seating and checking rings, locknuts, washers, screws and bolts; or

(ii) Any other metal except in sockets, separate switches, plugs, lamp cords, auxiliary ballasts and starter switches; except that he may use metal or metal parts which, on March 23, 1942, were in a fabricated or semi-fabricated form in his inventory or in the inventory of his suppliers.

(3) Except as provided in subparagraph (5) of this paragraph (b), no manufacturer shall produce any lamp shades containing

(i) Any silk which was not in his inventory on March 23, 1942;

(ii) Any metal except iron and steel in wire frames which, on December 10, 1942, was in his inventory or in the inventory of his suppliers in the form of wire or wire frames;

(iii) Any phenolic plastics which were not in his inventory or in the inventory of his suppliers on December 10, 1942.

(4) Except as provided in subparagraph (5) of this paragraph (b), on and after January 1, 1943, no manufacturer shall produce any lamp shades containing any metal, silk or phenolic plastics.

(5) Notwithstanding the provisions of subparagraphs (3) and (4) of this paragraph (b), a manufacturer may produce in fulfillment of preferred orders lamp shades containing iron and steel in wire frames, whether or not it was in his inventory or in the inventory of his supplier on December 10, 1942.

(c) *Avoidance of excessive inventories.* No manufacturer shall receive for use in the manufacture of portable lamps or lamp shades any materials which he cannot use under the terms of this order or any materials which when received will give him an inventory of such materials in excess of the minimum amount necessary to maintain production as permitted by this order.

(d) *Records.* All persons affected by this order shall keep and preserve for not less than two years accurate and complete records concerning inventories, production and sales.

(e) *Audit and inspection.* All records required to be kept by this order shall, upon request, be submitted to audit and inspection by duly authorized representatives of the War Production Board.

(f) *Reports.* Each manufacturer who produces any portable lamps or lamp shades in fulfillment of preferred orders shall file on or before the tenth day of each calendar month, beginning January 10, 1943, a report on Form PD-655, showing all shipments made pursuant to such preferred orders during the preceding calendar month. Each manufacturer shall also file such other reports and answers to questionnaires as shall from time to time be required.

(g) *Violations.* Any person who wilfully violates any provision of this order, or who, in connection with this order, wilfully conceals a material fact or furnishes false information to any department or agency of the United States, is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using, material under priority control and may be deprived of priorities assistance.

(h) *Appeal.* Any appeal from the provisions of this order must be made on Form PD-500 and must be filed with the field office of the War Production Board of the district in which is located the plant to which the appeal relates.

(i) *Applicability of priorities regulations.* This order and all transactions affected thereby are subject to all applicable provisions of the priorities regulations of the War Production Board, as amended from time to time.

(j) *Applicability of other orders.* In so far as any other order heretofore or hereafter issued by the Director of Priorities, the Director of Industry Operations, or the Director General for Operations, limits the use of any material in the manufacture of portable lamps or lamp shades to a greater extent than the limits imposed by this order, the restrictions in such other order shall govern unless otherwise specified therein.

(k) *Communications.* All reports required to be filed hereunder and all communications concerning this order shall, unless otherwise directed, be addressed to the Consumers' Durable Goods Division, War Production Board, Washington, D. C., Ref.: L-33.

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 10th day of December 1942.

ERNEST KANZLER,
Director General for Operations.

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PART 3135—ACRYLIC MONOMER AND ACRYLIC RESIN

[General Preference Order M-260]

The fulfillment of requirements for the defense of the United States has created a shortage in the supply of acrylic monomer and acrylic resin for defense, for private account, and for export; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense:

§ 3135.1 *General Preference Order No. M-260*—(a) *Definitions.* For the purpose of this order:

(1) "Acrylic monomer" means the unpolymerized forms of the methyl and higher esters of acrylic and methacrylic acids.

(2) "Acrylic resin" means the polymerized form of the methyl and higher esters of acrylic and methacrylic acids, in the following forms:

Cast sheet (unfabricated)
Molded sheet (unfabricated)
Molding powder
Rod
Tube
Solution
Emulsion
Cast shapes
Acrylic denture-base material

The term "acrylic resin" shall include, but is not limited to, those acrylic resins in the above forms known by the following trade names:

Acryloid	Flexiglas
Crystallite	Primal
Lucite	Rhoplex
Methacrol	

(3) "Producer" means any person who, for other than exclusively dental purposes:

(i) Synthesizes acrylic monomer from raw materials; or

(ii) Manufactures acrylic monomer by de-polymerization of acrylic resin; or

(iii) Manufactures acrylic resin by polymerization of acrylic monomer.

(4) "Distributor" means any purchaser of acrylic monomer or acrylic resin from a producer for purpose of resale without further fabrication, processing or admixing, but does not mean any purchaser of acrylic monomer or acrylic resin who resells exclusively for dental purposes.

(5) "Direct war use" means a use where the acrylic monomer or acrylic resin or products made therefrom are to be delivered to, or incorporated into material to be delivered to, the United States Army, Navy, Coast Guard, Maritime Commission, War Shipping Administration, Panama Canal, Coast and Geodetic Survey, Civil Aeronautics Administration, National Advisory Committee for Aeronautics, Office of Scientific Research and Development, or the government of any country, including those of the Western Hemisphere, pursuant to the Act of March 11, 1941, entitled "An Act to Promote the Defense of the United States" (Lend-Lease Act), or the government of any of the following countries: Belgium, China, Czechoslovakia, Free France, Greece, Iceland, Netherlands, Norway, Poland, Russia, Turkey, United Kingdom including its Dominions, Crown Colonies, and Protectorates, and Yugoslavia.

(b) *Restrictions on use and delivery of acrylic monomer and acrylic resin by producers and distributors.* (1) On and after January 1, 1943, no producer or distributor shall use or deliver acrylic monomer or acrylic resin, and no person shall accept delivery of acrylic monomer or acrylic resin from a producer or distributor, except as follows:

(i) Pursuant to specific authorization by the Director General for Operations upon application pursuant to paragraph (f); or

(ii) Delivery by and acceptance of delivery from a person who produces or

distributes acrylic monomer or acrylic resins exclusively for dental use; or

(iii) Acceptance of delivery of acrylic resin in cast sheet or molded sheet form from a producer or distributor by any person for aircraft glazing other than aircraft instrument lenses. Producers and distributors may not make deliveries for such use, however, without specific authorization of the Director General for Operations; or

(iv) Delivery of acrylic monomer by the acrylic monomer producing subdivisions to the acrylic resin producing subdivisions of the same enterprise under common ownership and control, and the use of such acrylic monomer by the latter subdivisions in the manufacture of acrylic resins; provided that no greater amount of acrylic monomer shall be so delivered and used than is necessary to produce the amount of acrylic resins for which delivery by the said acrylic resins producing subdivisions has been authorized; or

(v) Small order delivery and use of acrylic monomer and acrylic resins pursuant to paragraph (c).

(2) Each person authorized to accept delivery of acrylic monomer or acrylic resin shall use such acrylic monomer or acrylic resin for the purpose authorized, except as otherwise specifically directed by the Director General for Operations.

(3) On and after December 10, 1942, the Director General for Operations at his discretion may at any time issue special directions to any person with respect to the use, delivery, or transportation of acrylic monomer or acrylic resin by any such person, or of products made from acrylic monomer or acrylic resin allocated to such person; or special directions to any producer with respect to the kinds of acrylic monomer or acrylic resin which he may or must manufacture.

(c) *Small order exemption.* (1) Specific authorization under this order by the Director General for Operations shall not be required with respect to acceptance of delivery from a producer or distributor by any person of acrylic monomer and acrylic resins in one or more of the following forms, in amounts not exceeding the following quantities in any one calendar month (subject to the requirements of paragraph (c) (2) below):

Molding powder	50 pounds
Cast sheet	50 square feet
Molded sheet	50 square feet
Cast shapes	50 pounds
Tube	25 pounds
Rod	25 pounds
Solution	10 gallons
Emulsion	10 gallons
Monomer	10 pounds

(2) No person shall use acrylic monomer or acrylic resin acquired pursuant to paragraph (c) (1) above except for a direct war use, as defined, or for experimental purposes directly relating to a direct war use.

(3) Each producer or distributor shall deliver amounts of acrylic monomer and acrylic resin to persons entitled to accept delivery pursuant to paragraph (c) (1) above, in amounts not exceeding the total amount which he is specifically authorized by the Director General for Operations (on Form PD-601) to deliver for such purpose.

(d) *Restrictions on use or delivery of inventories.* (1) No person other than a producer or distributor shall use or deliver first grade (unfabricated) acrylic resin cast sheet or virgin acrylic resin molding powder in the inventory of, or in transit to, such person on January 1, 1943, and no person shall accept such a delivery, except as follows:

(i) Use by such person of 25 pounds or less of such sheet and powder together in the aggregate; or

(ii) Use or delivery of such sheet or powder for a direct war use, or for an experimental purpose directly relating to a direct war use; or

(iii) Use or delivery of such powder by (but not to) such person who sells or distributes acrylic resin exclusively for dental purposes; or

(iv) Pursuant to specific authorization of the Director General for Operations upon application pursuant to paragraph (f).

(2) Use and delivery by producers and distributors of their stocks of acrylic monomer and acrylic resins shall be governed by the provisions of paragraph (b).

(e) *Restrictions on use and delivery of scrap.* (1) On or after January 1, 1943, no person shall use, process, deliver or otherwise dispose of, and no person shall accept delivery of, acrylic resin scrap or trimmings resulting from any operation whatever (irrespective of when the operation took place or who conducted the operation), except as follows:

(i) Delivery of acrylic resin scrap to a producer, as defined; or

(ii) De-polymerization of acrylic resin scrap by a producer for reprocessing into acrylic resins; or

(iii) De-polymerization of acrylic resin scrap in the inventory of or in transit to any person on January 1, 1943, who sells or resells acrylic monomer or acrylic resin for dental purposes exclusively; or

(iv) Re-running of acrylic resin molding material scrap in the same operation from which the scrap resulted and for the same purpose for which the material was originally run; or

(v) Pursuant to specific authorization of the Director General for Operations pursuant to paragraph (f).

(f) *Applications for authorization.* (1) Each person (including producers or distributors) seeking authorization to use or accept delivery of acrylic monomer, acrylic resin, or acrylic resin scrap, shall file application on Form PD-600 in the manner prescribed therein, subject to the following instructions for purpose of this order:

Form PD-600. Copies of Form PD-600 may be obtained at local field offices of the War Production Board.

Time. Applications shall be filed on or before the 15th day of the month preceding the month for which authorization for use or acceptance of delivery is requested, except where delivery is sought from a distributor, in which case application shall be filed on or before the 10th day of the month, or except during December 1942, in which month applications shall be filed at the earliest possible opportunity.

Application shall be filed in time to ensure that a copy of the application will have reached the War Production Board and the producer or distributor on the date specified.

Application under paragraphs (b), (d) and (e). Applications by any person for use or acceptance of delivery of acrylic monomer or acrylic resin, whether from a producer or distributor under paragraph (b), or from inventory under paragraph (d), may be made on a single set of PD-600 forms, except in the case of scrap. In the case of scrap (paragraph (e)), application shall be made on a separate set of PD-600 forms, with the statement "Scrap" above the heading.

Aircraft sheet applications. Application shall not be made on Form PD-600 by persons seeking delivery of acrylic resin cast sheet or molded sheet for aircraft glazing other than instrument lenses. Quantities of such sheet allocated each month by the Director General for Operations for such purpose will be distributed in accordance with instructions issued by the Aircraft Scheduling Unit, Steele building, Dayton, Ohio.

Number of copies. Where application is made for authorization to accept delivery as well as to use, five copies shall be prepared of which one (in which columns 4 through 23 inclusive may be left blank) shall be forwarded to the producer or distributor (or other person from whom delivery is sought), and three certified completely filled out copies to the War Production Board, Chemicals Division, Washington, D. C., Ref. M-260. Where application is made for use only, and not for acceptance of delivery, four copies shall be prepared, and three certified completely filled out copies shall be forwarded to the War Production Board, Chemicals Division, Washington, D. C., Ref. M-260. A separate set of forms shall be filed for each producer, distributor, or other person from whom delivery is sought.

Intra-company deliveries. Subdivisions of any producer or distributor seeking authorization to accept delivery of acrylic monomer or acrylic resin from any other subdivision of the same enterprise under common ownership or control shall file Form PD-600 as in the case of any other applicant; except that intra-company deliveries of acrylic monomer for the production of acrylic resin governed by paragraph (b) (1) (iv) do not require the filing of Form PD-600.

Heading. Under name of chemical, specify acrylic monomer or acrylic resin, or both, as the case may be, or acrylic resin scrap; under War Production Board order, specify M-260; under name of company, specify name and mailing address of applicant; under unit of measure, specify area and thickness in the case of flat sheet, and pounds or gallons in the case of other products (where more than one unit of measure is needed, specify each unit of measure and indicate symbols used below referring to such

unit of measure); and specify delivery destination, supplier and shipping point.

Table I. Specify in the heading the month and year for which authorization for use or delivery is sought.

Column 1. Specify the grade or physical form of the material ordered, as follows:

1st grade cast sheet
2nd grade cast sheet
Molded sheet
Molding powder
Rod
Tube
Solution
Emulsion
Cast shapes
Monomer (identify type)

Column 2. Specify quantities in terms of the unit of measure stated in the heading above.

Column 3. Fill in Column 3 as follows:

For orders on hand:
Primary Product*
Export (in original form)
Resale (in original form)
For anticipated orders:
Primary Product*
Export (in original form)
Resale (in original form)
Inventory (in original form)
*The primary products referred to above shall be specified as follows:
Fabricated or molded parts (Identify as fabricated gauge lens, molded reflector, etc.)
Adhesive (Identify as label adhesive, tape adhesive, etc.)
Coating (identify material coated such as leather, paper, canvas, etc.)
Pharmaceuticals
Dentures
Synthetic rubber
Other (Specify)

Column 4. Identify and specify end use of finished product or assembly. If definite end use is not known, written statement must be obtained from the prime contractor. In the case of secret projects, the word "secret" and the name of the prime contractor should be entered. The end use of the parts shall be identified as, for example, M-4 Tank, Navy PT Boat, etc.

In the case of a distributor, opposite "resale" in Column 3, write in "pursuant to further authorization or for paragraph (c) small orders" in Column 4.

Columns 5, 6, 7, 8, 9 and 10. Leave blank.

Tables II and III. Fill in as indicated.

Table IV. Leave blank.

(2) Each producer, distributor or other person seeking authorization to make delivery of acrylic monomer, acrylic resin, or acrylic resin scrap, shall file application on Form PD-601 in the manner prescribed therein, subject to the following instructions for the purpose of this order:

Form PD-601. Copies of Form PD-601 may be obtained from local field offices of the War Production Board.

Time. Application on Form PD-601 shall be filed on or before the 22nd day of the month preceding the month for which authorization to make delivery is requested.

Applications under paragraphs (b), (d) and (e). Application by any person to make delivery of acrylic monomer or acrylic resin may be made on a single set of PD-601 forms (whether under paragraph (b) or (d)), except in the case of scrap. In the case of scrap (paragraph (e)), application shall be made on a separate set of PD-601 forms, with the statement "Scrap" above the heading.

Aircraft sheet deliveries. A consolidated application on Form PD-601 shall be made for authorization for deliveries of acrylic resin cast or molded sheet for aircraft glazing other than instrument lenses. (See instructions for Column 1 below.) Special directions by the Director General for Operations will be issued each month with respect to the amount of such sheet which shall be delivered by each producer (or distributor), in accordance with instructions issued by the Aircraft Scheduling Unit, Steele High Bldg., Dayton, Ohio.

Divisions of company. Each division of a single company producing or distributing acrylic monomer or acrylic resin shall file Form PD-601 as a separate individual for the purpose of this order. For further directions, see Column 1 instructions listed below.

Number of copies. Four copies shall be prepared, of which three certified copies shall be filed with the War Production Board, Chemicals Division, Washington, D. C., Ref. M-260. A separate set of forms shall be filed for each plant of the producer or distributor.

Heading. Under name of chemical, specify acrylic monomer or acrylic resin, or both, as the case may be, or acrylic resin scrap; under War Production Board order number, specify M-260; under name of company, specify name and mailing address of applicant seeking to make delivery; specify applicant's plant or warehouse address; indicate whether the applicant is a producer or a distributor as defined herein; specify the month and year during which deliveries covered by the application are to be made; and under unit of measure, specify area and thickness in the case of flat sheet, or pounds or gallons in the case of other products (where more than one unit of measure is used, specify the symbols used below to indicate such unit of measure).

Column 1. All customers shall be listed here who have filed Form PD-600 with the applicant.

Producing divisions seeking authorization to make deliveries to other divisions of the same enterprise under common ownership or control shall list the names of such other divisions as customers in Column 1 and shall fill in the other columns of Form PD-601 for such divisions as in the case of other customers. Intra-company deliveries of monomer for conversion into resin under paragraph (b) (1) (iv) need not be mentioned.

In the case of aircraft orders for cast or molded acrylic resin sheet, write in "sheet deliveries to be governed by Aircraft Scheduling Unit, Steele High Bldg., Dayton, Ohio."

Column 2. Fill in as indicated. Leave blank in case of sheet orders governed by Aircraft Scheduling Unit.

Column 3. Specify grade or physical form as stated in each customer's Form PD-600. In the case of aircraft sheet orders, specify "aircraft sheet".

Column 4. Specify quantity and unit of measure.

Columns 5 and 6. Leave blank.

Column 7. Persons (other than producers and distributors as defined) seeking to make delivery from inventory under paragraph (d) shall state in Column 7 the total amount in stock of each grade stated in Column 3. Likewise, persons seeking to make delivery of scrap under paragraph (e) shall state in Column 7 the total amount in stock of each type of scrap stated in Column 3.

Small orders. Producers and distributors filing application on Form PD-601 for authorization to make deliveries pursuant to paragraph (c) (3) shall list "small orders" in Column 1, the corresponding grade in Column 3, and the estimated aggregate deliveries in Column 4.

Experiment. A producer or distributor requiring acrylic monomer or acrylic resin for research, experiment, or development, shall make application on Form PD-601, and shall list his own name as customer.

Table II. In Column 8, grade or physical form shall be specified in the same manner as prescribed above for Column 1 of Form PD-600.

Producers, as defined herein, shall fill out Table II in full, and in Column 16 shall specify the estimated amount of monomer required for the estimated production appearing in Column 14. The producer shall strike out the heading printed in Column 16 and write in "monomer needed".

Distributors shall fill in Columns 8, 10, 12, 13 and 15 as indicated, and shall leave Columns 9, 11, 14 and 16 blank.

Producers, distributors and other persons seeking authorization to make delivery of scrap under paragraph (e) shall leave Table II blank, and persons (other than producers and distributors) seeking authorization to make deliveries from inventory under paragraph (d) shall leave Table II blank.

(3) The Director General for Operations may require each person affected by this order to file such other reports as may be prescribed and may issue special instructions to any such person with respect to preparing and filing forms PD-600 and PD-601.

(g) *Notification of customers.* Each producer and distributor shall notify his regular customers as soon as possible of the requirements of this order, but failure to receive such notice shall not excuse any person from complying with the terms hereof.

(h) *Miscellaneous provisions*—(1) *Applicability of priorities regulations.* This order and all transactions affected hereby are subject to all applicable provisions of the War Production Board priorities regulations, as amended from time to time, except Priorities Regulation No. 13, which shall be subject to this order where inconsistent herewith.

(2) *Violations.* Any person who wilfully violates any provision of this order, or who, in connection with this order, wilfully conceals a material fact or furnishes false information to any depart-

ment or agency of the United States is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using, material under priority control and may be deprived of priorities assistance.

(3) *Communications to War Production Board.* All reports required to be filed hereunder, and all communications concerning this order, shall, unless otherwise directed, be addressed to: War Production Board, Chemicals Division, Washington, D. C. Ref: M-260.

(P.D. Reg. 1, as amended, 6 F.R. 6680; W.P.B. Reg. 1, 7 F.R. 561; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; sec. 2 (a), Pub. Law 671, 76th Cong., as amended by Pub. Laws 89 and 507, 77th Cong.)

Issued this 10th day of December 1942.

ERNEST KANZLER,
Director General for Operations.

[F. R. Doc. 42-13090; Filed, December 10, 1942; 11:04 a. m.]

Chapter XI—Office of Price Administration

PART 1300—ADMINISTRATION

[Temporary Procedural Reg. 4,[1] Amendment 1]

ISSUANCE AND SERVICE OF SUSPENSION ORDERS

Section 1300.156 of Temporary Procedural Regulation No. 4 is hereby amended to read as set forth below and § 1300.160 is hereby added to Temporary Procedural Regulation No. 4:

§ 1300.156 *Issuance and service of suspension orders.* If, after the hearing, it is determined that the respondent has violated a rationing regulation or order, a suspension order may be issued, prohibiting the respondent from receiving, making delivery of or using rationed products, materials or facilities for such period as may be deemed appropriate in the public interest. A copy of such suspension order shall promptly be served on the respondent, and copies thereof shall be sent to his suppliers.

* * * * *

§ 1300.160 *Effective dates of amendments.* (a) This Amendment No. 1 (§ 1300.156) to Temporary Procedural Regulation No. 4 shall become effective December 9, 1942.

(Pub. Laws 421, 507, 77th Cong.; E.O. 9125, 7 F.R. 2719; W.P.B. Dir. No. 1, 7 F.R. 562)

Issued this 9th day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-13061; Filed, December 9, 1942; 2:51 p. m.]

[1] 7 F.R. 4296.

PART 1315—RUBBER AND PRODUCTS AND MATERIALS OF WHICH RUBBER IS A COMPONENT

[Ration Order 1A,[1] Amendment 4]

TIRES, TUBES, RECAPPING AND CAMELBACK

A rationale for this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.*

A new § 1315.503 (d) (4) is added and §§ 1315.509, 1315.609 (b) (1), 1315.804 (c) (3) and 1315.804 (c) (4) are amended to read as follows:

§ 1315.503 * * *
(d) * * *

(4) An applicant who has been granted a certificate for recapping service may be authorized to purchase a Grade III tire, upon turning in his recappable carcass, in any area where recapping facilities are unavailable or inadequate.

§ 1315.509 *Eligibility for allotment of Grade III tires*—(a) *Applicant must be a dealer.* The board may issue a certificate authorizing any applicant who is a dealer to acquire an allotment of Grade III tires for each establishment operated by him for which OPA Form R-17 has been filed for the quarter preceding his application, or for each establishment operated by him for which he was exempted from filing OPA Form R-17 under § 1315.1007 (b), or for each establishment which has been established pursuant to an authorization of the Office of Price Administration since October 1, 1942.

(b) *Amount of allotment.* Each applicant may be allotted one Grade III tire for each $1,000 of his 1941 retail and wholesale net dollar sales of passenger-type tires and tubes from the establishment for which the allotment is sought, but any applicant shall be entitled to at least twelve (12) Grade III tires: *Provided,* That a certificate shall be granted to authorize the acquisition of no more than the difference between such allotment and his inventory of Grade III tires (including Parts B of certificates authorizing the acquisition of Grade III tires which he received in exchange for Grade III tires, but upon which he has not yet obtained replenishment) as of the date of his application.

(c) *One allotment only.* The board shall grant only one allotment to an applicant for each establishment for which an allotment is sought: *Provided,* That an applicant eligible for an allotment in excess of two hundred (200) Grade III tires but who was limited to an allotment of two hundred (200) Grade III tires prior to December 9, 1942, may be granted an additional allotment equal to the difference between the allotment for which he is eligible under this section and two hundred (200) Grade III tires.

*Copies may be obtained from the Office of Price Administration.

[1] 7 F.R. 9160, 9392, 9724.

§ 1315.609 * * *
(b) * * *

(1) If the certificate to be issued by the board is for recapping service, the board shall note on Parts A and B thereof whether the certificate entitles the applicant to truck-type camelback or to passenger-type camelback, as provided in § 1315.505 (c), and shall mark Part B thereof "good for (truck or passenger-type) camelback only". If the board authorizes the holder of a certificate for recapping service to purchase a Grade III tire as provided in § 1315.503 (d) (4), it shall, in addition, write on Parts A, C and D of the certificate "good for any Grade III tire upon turning in of a recappable tire carcass".

* * * * *

§ 1315.804 *Dealer and manufacturer transfers.* * * *

(c) *Tires or tubes.* * * *

(3) *Permitted replenishment of tires or tubes.* Subject to the provisions of subparagraph (1) of this paragraph any dealer or manufacturer may, in exchange for a properly endorsed replenishment portion (Part B) of a certificate or receipt transfer to another dealer or manufacturer the number of tires or tubes authorized by the certificate or receipt in accordance with the table below:

If Part B calls for:	*Dealer or manufacturer may replenish with:*
Any size Grade I passenger - type tire.	Any size Grade I, II or III passenger-type tire.
Any size Grade II passenger - type tire.	Any size Grade II or III passenger-type tire.
Any size Grade III passenger - type tire.	Any size Grade III passenger - type tire or 8½ lbs. of passenger - type camelback.
Any size truck-type tire.	Any size truck-type tire.
Any size tractor-type tire.	Any size tractor, truck or implement-type tire.
Any size implement-type tire.	Any size tractor or implement-type tire.
Any size passenger tube.	Any size passenger tube.
Any size truck tube.	Any size truck tube.

(4) *Allotment of Grade III tires.* Any manufacturer or dealer may, in exchange for an appropriate certificate (OPA Form R-46), transfer the number of Grade III tires authorized thereon to a dealer. No manufacturer or wholesaler who has a supply of Grade III tires of the size and kind (i. e., used, recapped or reclaimed) ordered may refuse to transfer them to a dealer who presents a certificate for an allotment of Grade III tires (OPA Form R-46) if the dealer's order is accompanied with cash or its equivalent. If the manufacturer or wholesaler has the size and kind ordered but does not have the quantity ordered, he shall transfer the quan-

tity he has on hand and fill the balance of the order as instructed by the dealer. If the manufacturer or wholesaler does not have the size or kind ordered, he shall transfer Grade III tires of a different size or kind if the dealer requests him to do so. A manufacturer or wholesaler shall fill all accepted orders for Grade III tires received on one day before filling any orders received on any subsequent day.

* * * * *

§ 1315.1199 *Effective dates of amendment.* * * *

(d) Amendment No. 4 (§§ 1315.503, 1315.509, 1315.609 and 1315.804) to Ration Order No. 1A shall become effective December 9, 1942.

(Pub. Law No. 671, 76th Cong., as amended by Pub. Laws 89, 421, and 507, 77th Cong.; E.O. 9125, 7 F.R. 2719, issued April 7, 1942, W.P.B. Dir. No. 1, 7 F.R. 562, Supp. Dir. No. 1Q, 7 F.R. 9121)

Issued this 9th day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-13062; Filed, December 9, 1942; 2:48 p. m.]

PART 1351—FOOD AND FOOD PRODUCTS

[MPR 280, Amendment 1]

MAXIMUM PRICES FOR SPECIFIC FOOD PRODUCTS

A statement of the considerations involved in the issuance of this Amendment has been issued simultaneously herewith and filed with the Division of the Federal Register.*

New paragraphs (e) and (f) are added to § 1351.808;[1] new § 1351.821 is added; all to read as set forth below:

§ 1351.808 *Exempt sales.* * * *

(e) All sales of dried whole eggs to the United States of America, or any agency thereof, where the seller is obligated to make delivery of such eggs during the months of January and February, 1943.

(f) All sales of shell, liquid and frozen eggs to manufacturers of dried whole eggs for the sole purpose of manufacturing such eggs into dried whole eggs, and the sale and delivery of the manufactured product to the United States of America, or any agency thereof, during the months of January and February, 1943.

* * * * *

§ 1351.821 *Effective dates of amendments.* (a) Amendment No. 1 (§ 1351.808 (e) and (f)) to Maximum Price Regulation No. 280 shall be effective as of December 7, 1942.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

*Copies may be obtained from the Office of Price Administration.

[1] 7 F.R. 10146.

Issued this 9th day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-13063; Filed, December 9, 1942; 2:50 p. m.]

PART 1388—DEFENSE-RENTAL AREAS

[MRR 27, Amendment 3]

HOUSING ACCOMMODATIONS OTHER THAN HOTELS AND ROOMING HOUSES

Section 1388.1751[1] (a) (2) and the first sentence of § 1388.1757[2] of Maximum Rent Regulation No. 27 are amended to read as follows:

§ 1388.1751 *Scope of regulation.* (a) * * *

(2) That portion of the Parsons Defense-Rental Area consisting of the Counties of Labette and Montgomery, in the State of Kansas: *Provided, however,* That with respect to that portion of the Parsons Defense-Rental Area consisting of the County of Labette, the words "the effective date of this Maximum Rent Regulation" in this Maximum Rent Regulation shall mean July 1, 1942, and that with respect to that portion of the Parsons Defense-Rental Area consisting of the County of Montgomery, the words "the effective date of this Maximum Rent Regulation" in this Maximum Rent Regulation shall mean September 1, 1942.

* * * * *

§ 1388.1757 *Registration.* Within 45 days after the effective date of this Maximum Rent Regulation, or within 30 days after the property is first rented, whichever date is the later, every landlord of housing accommodations rented or offered for rent shall file in triplicate a written statement on the form provided therefor to be known as a registration statement. * * *

§ 1388.1764a *Effective dates of amendments.* * * *

(c) Amendment No. 3 (§§ 1388.1751 (a) (2) and 1388.1757) to Maximum Rent Regulation No. 27 shall become effective September 1, 1942.

(Pub. Law 421, 77th Cong.)

Issued this 9th day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-13064; Filed, December 9, 1942; 2:46 p. m.]

PART 1388—DEFENSE-RENTAL AREAS

[MRR 31A, Amendment 4]

HOTELS AND ROOMING HOUSES

Section 1388.1951[3] (a) (2) of Maximum Rent Regulation No. 31A is amended to read as follows:

§ 1388.1951 *Scope of regulation.* (a) * * *

[1] 7 F.R. 4909, 5362, 6645, 6827, 9764.

[2] 7 F.R. 4912, 5912, 7912.

[3] 7 F.R. 4923, 5045, 6827.

(2) That portion of the Parsons Defense-Rental Area consisting of the Counties of Labette and Montgomery, in the State of Kansas: *Provided, however,* That with respect to that portion of the Parsons Defense-Rental Area consisting of the County of Labette, the words "the effective date of this Maximum Rent Regulation" in this Maximum Rent Regulation shall mean July 1, 1942, and that with respect to that portion of the Parsons Defense-Rental Area consisting of the County of Montgomery, the words "the effective date of this Maximum Rent Regulation" in this Maximum Rent Regulation shall mean September 1, 1942.

* * * * *

§ 1388.1964a *Effective dates of amendments.* * * *

(d) Amendment No. 4 (§ 1388.1951 (a) (2)) to Maximum Rent Regulation No. 31A shall become effective September 1, 1942.

(Pub. Law 421, 77th Cong.)

Issued this 9th day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-13065; Filed, December 9, 1942; 2:46 p. m.]

PART 1391—BICYCLES AND BICYCLE EQUIPMENT

[Rev. Ration Order 7,[1] Amendment 5]

NEW ADULT BICYCLE RATION REGULATIONS

A rationale for the issuance of this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.*

A new paragraph (i) is added to § 1391.6; §§ 1391.5 (a) and (g), 1391.6, 1391.11 (a), 1391.24, 1391.25 (a) and 1391.26 (a) and (b) and the undesignated center heading "Transfers for Resale" are amended to read as set forth below:

Restriction on Tranfers

§ 1391.5 *Transfers not restricted.* The following transfers of new adult bicycles are not restricted:

(a) Transfers for purposes of sale or lease to any of the following who are dealers or transfers for purposes of sale to any of the following who are not dealers:

(1) Manufacturers;

(2) Tranferees of the entire assets of the business of a dealer, distributor or manufacturer;

(3) Persons who in good faith have lent money on the security of, or have financed the sale of, a new adult bicycle being acquired;

(4) Persons acquiring such a bicycle through distraint, levying by execution, attachment or similar forms of judicial process, or repossession on default;

(5) Persons duly authorized by law to engage in the insurance business, or

[1] 7 F.R. 5604, 5871, 8308, 9823.

their agents, who acquire such a bicycle by exercising the right of subrogation, or in consequence of the payment of a claim.

Provided, however, That within five days after a transfer under this paragraph (a), the transferee shall report to the Office of Price Administration, Inventory Unit, in writing, the name and address of the transferor and the transferee, the number of new adult bicycles transferred and their make, model and serial numbers: *And provided further,* That a transferee under subparagraph (2) of this paragraph (a) shall also report the number of certificates, authorizations or WPB Orders, or Parts B thereof, transferred with the assets of the business, and also their serial numbers;

* * * * *

(g) Transfers to any person for the use of his officers, agents, employees or volunteer workers, or transfers to dealers pursuant to a WPB Order or an authorization or a certification issued prior to July 9, 1942 for the purpose of sale or lease in accordance with Revised Ration Order No. 7; *Provided, however,* That no transfer shall be made to a dealer under this paragraph (g) unless the Office of Price Administration has certified to the transferor that the dealer has filed OPA Form R–701 with the OPA Inventory Unit.

* * * * *

(i) The exchange at the same time of one new adult bicycle (but not of a used bicycle) for another new adult bicycle of the same or approximately the same value: *Provided, however,* That if a certificate holder exchanges a bicycle with a dealer, the dealer shall note on Part C of the certificate the serial number of the bicycle he transferred in the exchange and within five days after the exchange the dealer shall notify the Office of Price Administration, Inventory Unit, of the transaction, the transferees name and address, and the serial numbers of the bicycles involved.

Transfers for Use or Salvage

§ 1391.6 *Transfers for use or salvage.*— (a) *Sales for use or salvage.* A new adult bicycle may be sold for use or salvage to, and may be purchased by a person to whom a certificate authorizing acquisition for such purchase has been issued under § 1391.7.

(b) *Leases to Federal agencies.* A new adult bicycle may be leased to a Federal Agency pursuant to a certificate issued by the Office of Price Administration, Washington, D. C., for that purpose and may be returned to the lessor at the termination of the lease.

§1391.11 *Certificates.* (a) If an application is granted, a serially numbered certificate in three parts, each bearing the same serial number, shall be issued on OPA Form R–704: *Provided, however,* That Part B of a certificate issued by the Office of Price Administration, Washington, D. C., to a Federal Agency authorizing the lease of a new adult bicycle shall be cancelled and shall not be used for any purpose.

* * * * *

Transfers for Sale or for Lease to a Federal Agency

§ 1391.24 *Transfers for sale or lease.* Transfers authorized in §§ 1391.25 and 1391.26 may be made by any person, to and may be accepted by any dealer or distributor but only for the purpose of sale by the dealer or distributor to an authorized purchaser or for lease to a Federal Agency pursuant to a certificate issued by the Office of Price Administration, Washington, D. C., for that purpose.

§ 1391.25 *Authorization for inital or increased inventory.* (a) A person desiring to establish a business for the sale or lease of new adult bicycles in accordance with Revised Ration Order No. 7 or a dealer or distributor whose business requires an increased stock of new adult bicycles or replacements for new adult bicycles which have been stolen may apply in writing to the appropriate regional office of the Office of Price Administration for an authorization permitting acquisition of such new adult bicycles. An application for an authorization should contain a complete statement of the facts upon which the application is based.

* * * * *

§ 1391.26 *Use by dealers and distributors of authorizations and Parts B of Certificates, authorizations and WPB Orders.* (a) A dealer or distributor who has transferred a new adult bicycle pursuant to a certificate, a WPB Order, or authorization issued on or after July 9, 1942, and who has completed and forwarded Part A of such certificate, authorization, or WPB Order, as required, may acquire, from a transferor, a new adult bicycle upon completion of Part B of such certificate, authorization, or order, and surrender thereof to such transferor.

(b) A dealer or distributor who has transferred a new adult bicycle to another dealer or distributor pursuant to Part B of a certificate, authorization, or WPB Order, issued on or after July 9, 1942, may acquire, from a transferor a new adult bicycle upon certifying on such document the name of the person from whom he received it and the number of new adult bicycles delivered by him pursuant thereto, and upon surrender thereof to such transferor. The dealer or distributor shall also note on such Part B the date on which he surrenders it to the transferor.

* * * * *

Effective Dates

§ 1391.37 *Effective dates of amendments.* * * *

(e) Amendment No. 5 (§§ 1391.5 (a), (g), and (i), 1391.6, 1391.11, 1391.24, 1391.25 (a) and 1391.26 (a) and (b)) to Revised Ration Order No. 7 shall become effective December 9, 1942.

(Pub. Law. 421, 77th Cong., 2d sess., W.P.B. Dir. No. 1, Supp. Dir. No. 1–G, 7 F.R. 562, 3546)

Issued this 9th day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42–13066; Filed, December 9, 1942; 2:50 p. m.]

PART 1394—RATIONING OF FUEL AND FUEL PRODUCTS

[Ration Order 5C,[1] Amendment 4]

MILEAGE RATIONING; GASOLINE REGULATIONS

A rationale for this amendment has been issued simultaneously herewith and has been filed with the Division of the Federal Register.*

Paragraph (d) of § 1394.7952 is revoked; subparagraphs (9), (14), and (30) of paragraph (a) of § 1394.7551, paragraph (c) of § 1394.7701, paragraph (d) of § 1394.7704, paragraph (a) of §1394.7705, subparagraph (1) of paragraph (a), paragraph (e), subparagraph (1) of paragraph (o), and paragraph (p) of § 1394.7706, paragraph (a) of § 1394.7752, paragraph (b) and subparagraph (4) of paragraph (c) of § 1394.7851, paragraphs (a) and (b) of § 1394.7952, paragraphs (a) and (d) of § 1394.8009, paragraph (a) of § 1394.8010, paragraphs (a), (c), and (d) of § 1394.8052, paragraph (a) of § 1394.8161, § 1394.8164, paragraph (b) of § 1394.8167, § 1394.8172, paragraph (d) of § 1394.8177, and paragraph (c) of §1394.8210, are amended; and a new paragraph (d) to § 1394.7651, a new paragraph (d) to § 1394.7701, a new paragraph (d) to § 1394.7702, a new § 1394.7758, a new § 1394.8014, a new paragraph (c) to § 1394.8161, and a new paragraph (d) to § 1394.8352, are added; as set forth below:

Definitions

§ 1394.7551 *Definitions.* (a) * * *

(9) "Equipment," when used in §§ 1394.7653 (c), 1394.7705 (d), 1394.7753, 1394.7755 (d), 1394.7758 (d), 1394.8009 (b) and (c), and 1394.8172, means any conveyance, other than a motor vehicle, which is designed for and capable of operation on one or more wheels and any machinery in the operation of which wheels, with mounted tires, are used.

* * * * *

(14) "Intermediate distributor" means any person, other than a licensed distributor, who is engaged in the business of transferring gasoline for resale. Any such person shall be deemed to be an intermediate distributor as to each place at which such business is carried on.

* * * * *

(30) "Passenger Automobile" means any motor vehicle, other than an ambulance, hearse, taxicab, jitney, or motorcycle, which is built primarily for the purpose of transporting persons on the highways and has a rated seating capacity of seven (7) or less; and includes station wagons and suburban carry-alls, irrespective of seating capacity, which are not available for hire or public rental.

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*Copies may be obtained from the Office of Price Administration.

[1] 7 F.R. 9135, 9787.

Basic Rations

§ 1394.7651 *Basic rations.* * * *

(d) A passenger automobile available for public rental.

* * * * *

Supplemental Rations

§ 1394.7701 *Supplemental rations.* * * *

(c) Except as provided in paragraph (d) of this section, applicants for Supplemental rations are deemed to have available 150 miles per month of occupational driving by using the Basic ration to which they are entitled; and Supplemental rations may be issued to provide only occupational mileage allowed by a Board in excess of 150 miles per month. However, no deduction for such 150 miles shall be made by the applicant in stating his required occupational mileage or by the Board in allowing occupational mileage, since a deduction of 150 miles from the total mileage allowed by the Board is automatically made when the Board applies the tables set forth in § 1394.7705 pursuant to which Supplemental rations are to be issued.

(d) Applicants for Supplemental rations in the States of Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, and Virginia, and the District of Columbia are deemed to have available ninety (90) miles per month of occupational driving by using the Basic ration to which they are entitled; and Supplemental rations may be issued in such States to provide only occupational mileage allowed by a Board in excess of ninety (90) miles per month. However, no deduction for such 90 miles shall be made by the applicant in stating his required occupational mileage or by the Board in allowing occupational mileage, since a deduction of 90 miles from the total mileage allowed by the Board is automatically made when the Board applies the tables set forth in § 1394.7705 pursuant to which Supplemental rations are to be issued.

§ 1394.7702 *Passenger automobiles or motorcycles for which supplemental rations may not be issued.* * * *

(d) *A passenger automobile available for public rental.*

§ 1394.7704 *Allowance of mileage.* * * *

(d) The Board shall deduct from the mileage it allows for a passenger automobile, in accordance with paragraph (b) above, 150 miles per month, (or in the States of Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachuetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont and Virginia, and in the District of Columbia, ninety (90) miles per month) for each additional passenger automobile (other than a fleet passenger automobile) owned by the applicant or by any person living in his household and related to him by blood, marriage or adoption, if the Board finds that such automobile is available to and adequate for the use of the applicant for the purpose for which the Supplemental ration is sought. No such automobile shall be deemed available to the applicant if it is used, to a substantial extent, for an occupational purpose of another person; nor shall such automobile be deemed available to the applicant during the effective period of a Supplemental ration issued to another person whose mileage allowance was reduced on account of such automobile.

§ 1394.7705 *Issuance of supplemental rations.* (a) Supplemental rations shall be issued to provide the total mileage allowed by the Board in accordance with § 1394.7704.

(1) In the case of a passenger automobile, except in the cases enumerated in subparagraph (2) hereof, the Board shall issue:

(i) In the event that the mileage allowed by the Board is 470 miles per month or less: one Class B book having the valid period specified in Table I for the mileage allowed;

(ii) In the event that the mileage allowed by the Board pursuant to paragraph (b) of § 1394.7704 exceeds 470 miles per month: one or more Class C books bearing expiration dates three months from the date of issuance or December 1, 1942, whichever is later, and containing the number of coupons specified in Table II for the mileage allowed.

(2) In the case of a passenger automobile for which application for a Supplemental ration is made in the States of Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, and Virginia, and the District of Columbia, the Board shall issue:

(i) In the event that the mileage allowed by the Board is 470 miles per month or less: one Class B book having the valid period specified in Table IA for the mileage allowed;

(ii) In the event that the mileage allowed by the Board pursuant to paragraph (b) of § 1394.7704 exceeds 470 miles per month: one or more Class C books bearing expiration dates three months from the date of issuance or December 1, 1942, whichever is later, and containing the number of coupons specified in Table IIA for the mileage allowed.

(3) In the case of a motorcycle: one or more Class D books (to be marked "Supplemental") bearing expiration dates three months from the date of issuance or December 1, 1942, whichever is later, and containing the number of coupons specified in Table I, if the mileage allowed is 470 miles per month or less, or specified in Table II, if the mileage allowed is in excess of 470 miles per month.

TABLE I.*—DETERMINATION OF DURATION AND AMOUNT OF SUPPLEMENTAL RATION

[For vehicles with an allowed mileage of more than 150 but not more than 470 miles per month]

Passenger automobiles				Motorcycles
Allowed mileage	Valid period of "B" book in months and weeks		Allowed mileage	Number of coupons to be issued in supplemental "D" book
	Months	Weeks		
0-150	(No "B" book)		0-150	(No supplemental "D" book.)
151-200	12		151-170	1.
201-215	10		171-190	2.
216-230	8		191-210	3.
231-257	7		211-230	4.
258-310	6		231-250	5.
311-324	5	2	251-270	6.
325-342	5		271-290	7.
343-363	4	2	291-310	8.
364-390	4		311-330	9.
391-406	3	3	331-350	10.
407-424	3	2	351-370	11.
425-445	3	1	371-390	12.
446-470	3		391-410	13.
			411-430	14.
			431-450	15.
			451-470	16.

*(To be used only for vehicles entitled to Basic rations.)

TABLE IA.*—DETERMINATION OF DURATION AND AMOUNT OF SUPPLEMENTAL RATION IN STATES OF CONNECTICUT, DELAWARE, FLORIDA, GEORGIA, MAINE, MARYLAND, MASSACHUSETTS, NEW HAMPSHIRE, NEW JERSEY, NEW YORK, NORTH CAROLINA, PENNSYLVANIA, RHODE ISLAND, SOUTH CAROLINA, VERMONT AND VIRGINIA, AND DISTRICT OF COLUMBIA

[For vehicles with an allowed mileage of more than 90 but not more than 470 miles per month]

Passenger automobiles

Allowed mileage	Valid period of "B" book, in months and weeks	
	Months	Weeks
0-90	No. "B" book.	
91-170	12	
171-185	10	
186-210	8	
211-227	7	
228-250	6	
251-264	5	2
265-282	5	
283-303	4	2
304-330	4	
331-345	3	3
346-364	3	2
365-385	3	1
386-410	3	
411-429	2	3
430-470	2	2

*(To be used only for vehicles entitled to Basic rations).

TABLE II.*—PASSENGER AUTOMOBILES OR MOTORCYCLES — DETERMINATION OF AMOUNT OF SUPPLEMENTAL RATION

[For vehicles with an allowed mileage of more than 470 miles per month]

	Number of coupons (Class "C" or supplemental Class "D" book)
Allowed mileage (all in excess of 470 miles per month must be preferred mileage):	
471-490	17
491-510	18
511-530	19
531-550	20
551-570	21
571-590	22
591-610	23
611-630	24
631-650	25
651-670	26
671-690	27
691-710	28
711-730	29
731-750	30
751-770	31
771-790	32
791-810	33
811-830	34
831-850	35
851-870	36
871-890	37
891-910	38
911-930	39
931-950	40
951-970	41
971-990	42
991-1,010	43
1,011-1,030	44
1,031-1,050	45
1,051-1,070	46
1,071-1,090	47
1,091-1,110	48

*(To be used only for vehicles entitled to Basic rations.)

(In the event allowed mileage exceeds 1,110 miles, one additional coupon shall be issued for each 20 miles, or fraction thereof, of allowed mileage in excess of 1,110 miles. Additional books may be issued if necessary to provide additional coupons.)

TABLE IIA.* — PASSENGER AUTOMOBILES AND MOTORCYCLES

[Determination and amount of supplemental ration in States of Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont and Virginia, and District of Columbia. (For vehicles with an allowed mileage of more than 470 miles per month)]

Allowed mileage (all in excess of 470 miles per month must be preferred mileage)	Number of coupons in Class "C" book
471-490	20
491-510	21
511-530	22
531-550	23
551-570	24
571-590	25
591-610	26
611-630	27
631-650	28
651-670	29
671-690	30
691-710	31
711-730	32
731-750	33

TABLE IIA.* — PASSENGER AUTOMOBILES AND MOTORCYCLES—Continued

[Determination and amount of supplemental ration in States of Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont and Virginia, and District of Columbia. (For vehicles with an allowed mileage of more than 470 miles per month)]

Allowed mileage (all in excess of 470 miles per month must be preferred mileage)	Number of coupons in Class "C" book
751-770	34
771-790	35
791-810	36
811-830	37
831-850	38
851-870	39
871-890	40
891-910	41
911-930	42
931-950	43
951-970	44
971-990	45
991-1010	46
1011-1030	47
1031-1050	48
1051-1070	49
1071-1090	50
1091-1110	51
1111-1130	52
1131-1150	53
1151-1170	54
1171-1190	55
1191-1210	56
1211-1230	57
1231-1250	58
1251-1270	59
1271-1290	60
1291-1310	61
1311-1330	62
1331-1350	63
1351-1370	64
1371-1390	65
1391-1410	66

*(To be used only for vehicles entitled to Basic rations.)

In the event allowed mileage exceeds 1410 miles, 1 additional coupon shall be issued for each 20 miles, or fraction thereof, of allowed mileage in excess of 1410 miles. Additional books may be issued if necessary to provide additional coupons.

* * * * *

§ 1394.7706 *Preferred mileage.* * * *

(a) * * *

(1) No Board (unless otherwise instructed by the Office of Price Administration) shall allow preferred mileage to any agent, representative, officer, or employee of a Federal, State, local or foreign government or government agency for carrying on the official business of such government or government agency (other than mileage to be driven in an official vehicle) unless the application for such ration has been certified by an officer of such government or government agency empowered to authorize or to supervise travel by such agent, representative, officer or employee.

* * * * *

(e) For delivery, other than delivery to the reader, of newspapers or magazines * * *

(o) * * *

(1) Naval, military, or hospital establishments or facilities, or civilian public service camps established and maintained pursuant to Section 5 (g) of the Selective Service and Training Act of 1940;

* * * * *

(p) By an authorized agent of government or of management or labor for travel necessary to recruit or train workers listed in paragraph (a) or (o) of this section, or for travel to, from, within, or between the establishments or facilities listed in paragraph (o) of this section in order to maintain peaceful industrial relations therein.

* * * * *

Official and Fleet Rations (for Official and Fleet Passenger Automobiles and Motorcycles)

§ 1394.7752 *Persons entitled to official and fleet rations.* (a) Subject to the provisions of paragraph (b) hereof, the owner or the person entitled to the use of an official motor vehicle may obtain an "Official" ration and the owner or the person entitled to the use (other than a lessee of a vehicle available for public rental) of a registered passenger automobile or a registered motorcycle (other than an official motor vehicle or a passenger automobile available for public rental for seven (7) consecutive days or less) which is a part of a fleet may obtain a "Fleet" ration, providing for occupational mileage to the extent that such mileage is allowed by a Board in accordance with § 1394.7754.

* * * * *

§ 1394.7758 *Issuance of rations to lessees of passenger automobiles or motorcycles available for public rental.* (a) The lessee of a passenger automobile or motorcycle available for public rental who holds such vehicle under a lease for a term of more than seven (7) consecutive days may apply for a ration for use in such vehicle to provide solely for the occupational mileage to be driven therein during the term of such lease.

(b) Application for such ration shall be made to a Board on or after December 15, 1942. The applicant shall establish the average monthly occupational mileage within the continental United States required for such vehicle, or required for each of a group of such vehicles used interchangeably for carrying on the same or a related occupation or occupations, during the three month period beginning with the date on which the ration is required, or during the remaining term of the lease, whichever is

less. Such application shall be made on Form OPA R–551: *Provided,* That the certification therein contained as to ownership of tires by the registered owner of the vehicle or vehicles shall be revised to constitute a certification as to tires owned by the lessee of such vehicle or vehicles.

(c) If the Board finds the facts stated on the application to be true, it shall determine the allowed mileage for such vehicle in the manner provided in § 1394.7754 and shall issue a ration in accordance with the provisions of paragraphs (a), (b) and (c) of § 1394.7755, except as otherwise provided herein. The Board issuing the ration shall, at the time of issuance, note on the cover of the book the name and address of the person to whom the ration is issued, and shall note on the book and on the application the date on which it expires. If the mileage allowed is 470 miles per month or less and the term of the lease remaining from the date of issuance of the ration is less than the period specified in Table III for such allowed mileage, or if the mileage allowed is more than 470 miles per month and the remaining term of the lease is less than three (3) months, (or, in the case of application hereunder for one or more motorcycles, if the remaining term of the lease is less than three (3) months, irrespective of the mileage allowed) the Board shall issue a ration containing coupons sufficient to allow the allowed mileage for the remaining term of the lease, and shall remove from the ration book or books issued all coupons in excess of such number, and in such case the expiration date of the ration shall be the date on which the lease terminates.

(d) No ration shall be issued by a Board pursuant to the provisions of this Section unless the lessee of the vehicle or vehicles for which such ration is sought has certified in the application that no passenger-type tires (excluding motorcycle tires but including scrap tires) are owned by the lessee of such vehicle or vehicles other than tires reported on OPA Form R–17 or R–17 Revised, or reported by a manufacturer to the War Production Board, or tires mounted (including one spare per motor vehicle) on motor vehicles or equipment. No person shall be entitled to a ration pursuant to the provisions of this section if, at the time of issuance thereof, the lessee of the vehicle or vehicles for which the ration is sought owns passenger-type tires (excluding motorcycle tires but including scrap tires) other than tires reported on OPA Form R–17 or R–17 Revised, or reported by a manufacturer to the War Production Board, or tires mounted (including one spare per motor vehicle) on motor vehicles or equipment.

* * * * *

Special Rations

§ 1394.7851 *Application for special ration.* * * *

(b) Special rations shall be issued in order to permit the acquisition of gasoline for one or more of the following purposes:

(1) For use with a passenger automobile, motorcycle, or motorboat:

(i) To obtain necessary medical attention or therapeutic treatment, or to procure necessary food or supplies;

(ii) To move such a vehicle or boat in connection with a bona fide change of the regular place of residence of the person entitled to the use thereof; or to return such a vehicle or boat to the regular place of residence of the person entitled to the use thereof on December 1, 1942, if such vehicle or boat has been continuously away from such place of residence since that date: *Provided,* That if such place of residence and such vehicle or boat were, on December 1, 1942, within the limitation area, no such ration shall be issued unless such vehicle or boat has been continuously away from the regular place of residence of the person entitled to the use thereof since August 22, 1942.

(2) For use with a passenger automobile or motorcycle:

(i) To transport the personnel and equipment of a scientific expedition organized or sponsored by a recognized scientific or educational institution or organization, if the Board finds that such expedition is in the public interest;

(ii) To carry persons to and from the polls for the purpose of voting in public elections (including primary elections); or to act as duly appointed election officials or poll watchers; or by a bona fide candidate for public office for purposes essential to the prosecution of his candidacy.

(3) For use with a motor vehicle or motorboat:

(i) To operate a motor vehicle or motorboat held by a motor vehicle or boat dealer for sale or resale, for the purpose of demonstrating such vehicle or boat to prospective purchasers: *Provided,* That no ration in excess of five (5) gallons per month per vehicle or boat shall be granted for such purpose;

(ii) To move such vehicle or boat to a place of storage upon repossession, or upon seizure by a government authority;

(iii) To deliver such vehicle or boat after bona fide sale thereof or pursuant to a bona fide lease of more than ninety (90) days;

(iv) To move such vehicle or boat from a sales establishment or place of storage to another sales establishment or place of storage; *Provided,* That no ration in excess of five (5) gallons per month per vehicle or boat shall be granted for such purpose.

(4) For use with a motor vehicle:

(i) To operate such vehicle in the course of manufacture or assembly for the purpose of testing such vehicle or moving it within or between plants engaged in its manufacture or assembly;

(ii) To operate such vehicle for the purpose of bona fide tests or experiments contributing to the war effort, which require the use of the vehicle therein;

(iii) To operate a motor vehicle used by a Federal, State or local government or government agency in testing tires, fuels or equipment.

(c) * * *

(4) If application is made pursuant to paragraph (b) (1) (i), paragraph (b) (2) (i) or (ii), or paragraph (b) (3) (iii) of this section, the alternative means of transportation which are available and the reasons, if any, why such alternative means are not reasonably adequate for the purpose.

* * * * *

Issuance of coupon books and acknowledgments of delivery by the Office of Price Administration, Washington, D. C.

§ 1394.7952 *Acknowledgments of delivery.* (a) Form OPA R–544 and OPA R–544 Revised, for Acknowledgment of Delivery, to be used for the acquisition of gasoline by or on behalf of the Army, Navy, Marine Corps, Coast Guard, Maritime Commission, and War Shipping Administration of the United States, and by Post Exchanges, Ships' Service Stores and similar facilities located at Military or Naval Posts or Stations, will be issued by the Washington Office to the Washington Headquarters of such agencies or activities. Military or Naval Posts or Stations, and Post Exchanges, Ships' Service Stores and similar facilities located at such Posts or Stations, shall use Acknowledgments of Delivery (or other evidences) for the acquisition of gasoline for transfer to consumers. Any such form bearing the signature of an authorized officer, agent or employee of any such agency, or activity shall be valid as an authorization of transfer of gasoline by any person to whom it is presented, to the extent of the gallonage thereon stated.

(b) In the event that an Acknowledgement of Delivery form should not be available, gasoline may be acquired by or on behalf of such agencies or activities in exchange for an Emergency Acknowledgment on an official letterhead of the agency or activity on whose behalf the gasoline is acquired, or in any other form if such a letterhead is unavailable, but such an Emergency Acknowledgment may not be used to secure a transfer of gasoline into the fuel tank of a motor vehicle or motorboat not clearly identifiable as owned or leased and operated by one of such agencies or activities. Such Emergency Acknowledgment shall supply the information required by Form OPA R–544 Revised and shall be signed by an authorized officer, agent, or employee of such agency or activity; such Emergency Acknowledgment shall show the address of the agency or activity on whose behalf such Emergency Acknowledgment was issued. Such Emergency Acknowledgment may be used as an evidence for the purpose of replenishment by the transferor.

* * * * *

General Provisions With Respect to Issuance of Rations and Tire Inspection Records

§ 1394.8009 *Issuance of tire inspection records.* (a) Upon the issuance of any Basic, Official or Fleet ration (or a ration issued pursuant to the provisions of § 1394.7757 or § 1394.7758) during the

period between November 9, 1942, and December 12, 1942, inclusive, the Board or Registrar, as the case may be, shall issue one Tire Inspection Record on Part B of Form OPA R-534 for each vehicle for which a ration is issued unless a Tire Inspection Record has previously been issued for such vehicle.

* * * * *

(d) After December 12, 1942, no Tire Inspection Record shall be issued unless the application therefor was made prior to that date or the applicant shows good cause why such application was not made on or before December 12, 1942.

§ 1394.8010 *Presentation of tire inspection records and records required to be maintained by the Office of Defense Transportation.* (a) After December 12, 1942, no Supplemental, Official, or Fleet ration, or ration issued pursuant to the provisions of § 1394.7757 or § 1394.7758, shall be issued or renewed unless the applicant presents to the Board a Tire Inspection Record on Part B of Form OPA R-534 for each vehicle for which a ration is sought indicating that odometer readings have been taken, and that the tires on such vehicles have been inspected and approved in accordance with the requirements of Ration Order No. 1A: *Provided,* That in the event the applicant shows that the required readings, inspections or approvals could not be taken, made or obtained, because of the serious illness of the applicant or the physical condition or location of the vehicle, the Board may in its discretion issue or renew such ration if the current inspection shows no evidence of abuse or neglect of any of the tires upon the vehicle.

* * * * *

§ 1394.8014 *Issuance of rations notwithstanding ownership of excess tires.* (a) Notwithstanding any other provisions of Ration Order No. 5C, a Basic, Supplemental, or Fleet ration, or a ration issued pursuant to the provisions of § 1394.7757 or § 1394.7758, or a Tire Inspection Record on Part B of Form OPA R-534, may be issued or renewed, and such a ration may be used for the operation of a motor vehicle, even though the registered owner or lessee of such vehicle (or, with respect to Basic or Supplemental rations, any person living in the household of such owner and related to him by blood, marriage or adoption) owns passenger-type tires (excluding motorcycle tires but including scrap tires) other than tires reported on OPA Form R-17 or R-17 Revised, or reported by a manufacturer to the War Production Board, or tires mounted (including one spare per motor vehicle) on motor vehicles or equipment, if:

(1) Such other tires have been acquired pursuant to a certificate issued under the Revised Tire Rationing Regulations or Ration Order No. 1A, or the possession and use of such tires is otherwise expressly permitted or authorized by the Office of Price Administration or by the War Production Board;

(2) Such other tires are scrap tires held for purposes of sale or other disposition by a person regularly engaged in the business of dealing in scrap, or by a reclaiming or processing plant for the purpose of processing such tires;

(3) Such other tires are owned jointly by two or more persons, or are and have been, continuously since November 8, 1942 or earlier, subject to a lien or otherwise designated or held as security for debt under a mortgage, pledge or similar security transaction, and the owner of such tires is unable to secure the consent of the joint owner of, or the holder of a security interest in, such tires to their sale or other disposition; or

(4) Such other tires are held for use as spares for farm equipment or farm implements, if the Board finds that such spares are necessary for continued operation of such equipment, but in any event not in excess of one (1) spare for each such piece of equipment.

(b) The registered owner or lessee of the vehicle for which the ration or Tire Inspection Record is sought shall, if such other tires are held for one of the reasons enumerated in paragraph (a) of this section, submit together with his application a signed statement to the Board setting forth the grounds upon which the claim to permissible retention of such other tires is based. If the Board finds that retention of such other tires is permitted or authorized under the provisions of paragraph (a) of this section, it shall, if the applicant is otherwise entitled thereto, issue the ration or Tire Inspection Record for which application was made.

(c) In any case in which such other tires have been transferred by a manufacturer, testing laboratory, or other person to, and are held by, an applicant for a ration or Tire Inspection Record for testing purposes pursuant to authorization by the Office of Price Administration or the War Production Board, the official in charge of such testing program shall execute an affidavit in duplicate setting forth the name and address of the person holding such test tires, the make, license number and state of registration of the vehicle upon which such tires are mounted, the date and nature of the authorization pursuant to which such tires were transferred, the serial numbers of the tires which are being tested, and the serial numbers of the tires which have been removed from the vehicle for purposes of the test. The original of such affidavit shall be filed with the Board at the time of making application for a ration or Tire Inspection Record in lieu of the signed statement required in paragraph (b) of this section, and the duplicate thereof shall be retained by the applicant. If the Board finds that such other tires have been transferred to and are held by the applicant for authorized testing purposes, it shall, if the applicant is otherwise entitled thereto, issue the ration or Tire Inspection Record sought, and shall set forth on such Tire Inspection Record the serial numbers of the tires physically mounted on such vehicle (including one spare), whether or not such tires are held for testing purposes.

Renewal of Rations and Issuance of Further Rations

§ 1394.8052 *Issuance of further ration for use prior to expiration date of current ration.* (a) Any person who finds that, due to a change in occupation or in the location of place of business or residence, or other change in circumstances, or due to seasonal variation in the amount of occupational mileage needed, miscalculation of needs, or reduction in the unit value of a Basic ration held by him, a ration of any class (other than a Basic ration) issued to him fails to meet his requirements, may apply for a further ration of such class for use prior to the expiration date of his current ration. Such application shall be made in the same manner as the application for the current ration.

* * * * *

(c) If the Board determines that, for one or more of the reasons specified in paragraph (a) of this section, more mileage is needed, or in the case of a Non-Highway ration, more gasoline is required, than that stated in the application on the basis of which the current ration was issued, it may grant a further ration in accordance with the provisions of paragraph (b) of § 1394.8054. In any case in which application hereunder is made because of a reduction in allowed mileage claimed to have been caused by a reduction in the unit value of a Basic ration held by the applicant, the Board shall grant a further ration for use prior to the original expiration date of the current ration only if it finds that the applicant still requires the mileage lost by reason of such reduction.

(d) No further Supplemental ration under § 1394.7705, or Official or Fleet ration under § 1394.7755, or ration pursuant to the provisions of § 1394.7757 or § 1394.7758, or Non-Highway ration, shall be granted, pursuant to this section, which would permit the applicant to exceed the maximum mileage or gallonage to which he would be entitled under the provisions of paragraph (b) of § 1394.7704, or paragraph (b) of § 1394.7754 or § 1394.7904, as the case may be. No further Transport ration shall be granted pursuant to this section which would allow a vehicle or fleet for the operation of which a Certificate of War Necessity is required more gasoline that the maximum amount authorized by the Certificate of War Necessity issued for such vehicle or fleet.

* * * * *

General provisions with respect to transfers and use

§ 1394.8161 *General restrictions on use.* (a) No person to whom a Special ration has been issued may use or permit the use of such ration for any purpose other than the one for which it was issued. No person to whom a Supplemental, Official, Fleet, or Non-Highway ration, or ration issued pursuant to the provisions of § 1394.7757 or § 1394.7758, has been issued may use or permit the use of such ration for a purpose other than one for which such ration could be

obtained pursuant to the Ration Order under which it was issued.

* * * * *

(c) No ration issued to the lessor of a passenger automobile or motorcycle available for public rental for use with such vehicle may be used by a lessee of such vehicle during the term of a lease of more than seven (7) consecutive days.

§ 1394.8164 *Restriction on use of rations or gasoline for sightseeing purposes.* No Supplemental, Official or Fleet ration, or ration issued pursuant to the provisions of § 1394.7757 or § 1394.7758, shall be issued or used, and no gasoline procured in exchange for such a ration shall be used or knowingly transferred for use, for the operation of any motor vehicle, under charter or otherwise, for sightseeing purposes.

§ 1394.8167 *Restrictions on consumption of gasoline.* * * * (b) The provisions of this section shall not be applicable to the consumption of gasoline by the Army, Navy, Marine Corps, Coast Guard, Maritime Commission, or the War Shipping Administration of the United States, or to the consumption by anyone of gasoline brought into the continental limits of the United States in the fuel supply tank of a vehicle, boat or equipment.

§1394.8172 *Tire certification, inspection and surrender of excess tires.* After December 12, 1942, no person shall use or permit the use of gasoline in a motor vehicle for which a Basic, Supplemental, Fleet or Official ration, or a ration pursuant to the provisions of § 1394.1309 of Ration Order No. 5A or § 1394.7757 or § 1394.7758 of Ration Order No. 5C, has been issued, unless a certification of passenger-type tires has been filed under §§ 1394.7653 (e), 1394.7705 (d), 1394.7753, 1394.7755 (d), 1394.7757 (b), 1394.7758 (d) or 1394.8009 of Ration Order No. 5C, nor unless a Tire Inspection Record has been issued and is currently maintained as required by the Office of Price Administration; nor may gasoline be used on and after December 12, 1942, in any such motor vehicle, other than an official vehicle, if the registered owner or lessee (or, in the case of a ration issued pursuant to § 1394.1309 of Ration Order No. 5A or § 1394.7757 of Ration Order No. 5C, if the owner) of such vehicle owns passenger-type tires (excluding motorcycle tires but including scrap tires) other than tires reported on OPA Form R–17 or R–17 Revised, or tires reported by a manufacturer to the War Production Board, or tires mounted (including one spare per motor vehicle) on motor vehicles or equipment. On and after December 12, 1942, no person shall use or permit the use of gasoline in a motor vehicle for which a Basic or Supplemental ration has been issued, if any person living in the household of the registered owner of such vehicle and related to such owner by blood, marriage or adoption owns passenger-type tires (excluding motorcycle tires but including scrap tires) other than tires reported on OPA Form R–17 or R–17 Revised, or tires reported by a manufacturer to the War Production Board, or tires mounted (including one spare per motor vehicle) on motor vehicles or equipment.

§1394.8177 *Rations not transferable.* * * *

(d) Notwithstanding the remaining provisions of the section, but subject to the provisions of paragraph (c) of § 1394.8161, a ration, other than a Special ration, may be used by anyone entitled to use the vehicle, boat or equipment for which it was issued, if such use is for a purpose for which such ration may be obtained, and so long as there is no change in ownership of such vehicle, boat of equipment.

* * * * *

Replenishment and Audit

§ 1394.8210 *Upstream transfers.* * * *

(c) If gasoline is transferred between a Military or Naval Post or Station and a facility such as a Post Exchange or Ships' Service Store coupons or other evidences shall not be surrendered to a Board as required in paragraph (b) of this section.

* * * * *

Effective Dates

§ 1394.8352 *Effective dates of amendments.* * * *

(d) Amendment No. 4 (§§ 1394.7551 (a) (9), (a) (14) and (a) (30), 1394.7651 (d), 1394.7701 (c) and (d), 1394.7702 (d), 1394.7704 (d), 1394.7705 (a), 1394.7706 (a) (1), (e), (o) (1) and (p), 1394.7752 (a), 1394.7758, 1394.7851 (b) and (c) (4), 1394.7952 (a), (b) and (d), 1394.8009 (a) and (d), 1394.8010 (a), 1394.8014, 1394.8052 (a), (c) and (d), 1394.8161 (a) and (c) 1394.8164, 1394.8167 (b), 1394.8172, 1394.8177 (d), and 1394.8210 (c)) to Ration Order No. 5C shall become effective December 15, 1942.

(Pub. Law 671, 76th Cong., as amended by Pub. Laws 89, 507, 421, 77th Cong.; W.P.B. Dir. No. 1, Supp. Dir. No. 1Q, 7 F.R. 562, 9121, E.O. 9125, 7 F.R. 2719.)

Issued this 9th day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-13067; Filed, December 9, 1942; 2:46 p. m.]

PART 1396—FINE CHEMICALS, DRUGS AND COSMETICS

[MPR 282]

CERTAIN PRIVATE FORMULA PHARMACEUTICAL, PROPRIETARY DRUG AND COSMETIC PRODUCTS

In the judgment of the Price Administrator the maximum prices established by this regulation are and will be generally fair and equitable, will effectuate the purposes of the Emergency Price Control Act of 1942, as amended, and are necessary to adjust the provisions of the General Maximum Price Regulation[1] to the particular circumstances of manufacturers of private formula pharmaceutical, proprietary drug and cosmetic products. So far as practicable, the Price Administrator has advised and consulted with representative members of the industry which will be affected by this regulation. A statement of the considerations involved in the issuance of this regulation has been issued simultaneously herewith and filed with the Division of the Federal Register.*

Therefore, under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order No. 9250, and in accordance with Revised Procedural Regulation No. 1[2] issued by the Office of Price Administration, Maximum Price Regulation No. 282 is hereby issued.

Sec.

AUTHORITY: §§ 1396.251 to 1396.263, inclusive, issued under Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871.

§ 1396.251 *Applicability of the General Maximum Price Regulation.* The provisions of §§ 1499.1 to 1499.3, inclusive, and §§ 1499.21 to 1499.23, inclusive, of the General Maximum Price Regulation shall not apply to sales or deliveries of private formula pharmaceutical, proprietary drug and cosmetic products (as defined in § 1396.262) by the manufacturers thereof. All other sections of the General Maximum Price Regulation, together with existing and subsequent amendments and supplementary regulations, shall apply to sales and deliver-

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*Copies may be obtained from the Office of Price Administration.

[1] 7 F.R. 3153, 3330, 3666, 3930, 3931, 4333, 4497, 4659, 4738, 5027, 5276, 5192, 5365, 5445, 5565, 5484, 5775, 5784, 5783, 6053, 6031, 6007, 6216, 6015, 6794, 6939, 7093, 7322, 7454, 7753, 7913, 8431, 8331, 9004, 8942, 9435, 9615, 9616.

[2] 7 F.R. 8961.

ies by such manufacturers, and are hereby incorporated by reference into this Maximum Price Regulation No. 282.

§1396.252 *Prohibition against dealing in private formula pharmaceutical, proprietary drug and cosmetic products above maximum prices.* On and after December 14, 1942, regardless of any contract or other obligation (except as provided in paragraph (c) of this section):

(1) No manufacturer shall sell or deliver any private formula pharmaceutical, proprietary drug or cosmetic product at a price higher than the maximum price permitted by this Maximum Price Regulation No. 282; and

(2) No person in the course of trade or business shall buy or receive any such private formula product from a manufacturer at a price higher than the maximum price permitted by this Maximum Price Regulation No. 282: *Provided,* That in the case of a private formula product for which a maximum price has been established under § 1396.254 of this Maximum Price Regulation No. 282, if the purchaser shall receive from the seller a written affirmation that the seller has calculated the maximum price for the product in accordance with § 1396.254 and has filed a report with the Office of Price Administration as required by that section and if in such case the purchaser shall have no knowledge of the maximum price and no cause to doubt the accuracy of the affirmation, and provided the price paid is not in excess of the maximum price so affirmed by the seller, the purchaser shall be deemed to have complied with this section.

(b) On and after December 14, 1942, no manufacturer shall sell, offer to sell, deliver or transfer any private formula product for which a maximum price must be determined under § 1396.254 until he has complied with the reporting provisions of that section.

(c) Nothing in this Maximum Price Regulation No. 282 shall prevent the fulfillment of contracts entered into before December 14, 1942, for the sale of private formula pharmaceutical, proprietary drug and cosmetic products at prices not exceeding the maximum prices established by the General Maximum Price Regulation prior to December 14, 1942.

§ 1396.253 *Maximum prices for private formula pharmaceutical, proprietary drug and cosmetic products delivered or offered for delivery during March 1942.* The maximum price for a sale by a manufacturer of any private formula pharmaceutical, proprietary drug or cosmetic product which is the same as a private formula product which was delivered or offered for delivery in March 1942 by the manufacturer, shall be the highest price charged by the manufacturer during March 1942 (as defined in paragraph (a) (6) of § 1396.262) for that product.

§ 1396.254 *Maximum prices for private formula pharmaceutical, proprietary drug and cosmetic products not delivered or offered for delivery during March 1942.* (a) The maximum price for a sale by a manufacturer of any private formula pharmaceutical, proprietary drug or cosmetic product which is not the same as a product which was delivered or offered for delivery by the manufacturer during March 1942, shall be the unit direct cost (computed as directed below) for the private formula product being priced, plus the percentage of mark-up (computed as directed below) which the manufacturer obtained on that sale of a comparable private formula product made in the twelve months ended March 31, 1942 which was nearest in quantity (as defined in paragraph (a) (7) of § 1396.262) to the sale of the private formula product being priced.

(b) *Computation of unit direct cost of the private formula product being priced.* The unit direct cost of the private formula product being priced shall be the sum of the costs per unit of direct labor and materials, computed on the basis of the following wage rates, material prices and operating conditions:

(1) *Wage rates.* The wage rates applicable to the private formula product being priced shall be no higher than the average wage rate in effect in the manufacturer's plant on March 31, 1942 for each class of labor involved in the production of that product. If the manufacturer did not employ a given class of labor on March 31, 1942, he shall use wage rates no higher than the average wage rate paid on March 31, 1942 by the nearest employer operating under comparable conditions who employed that class of labor on that date.

(2) *Material costs.* The price of any material used in the private formula product being priced shall be no higher than the highest price charged during March 1942 (as defined in paragraph (a) (6) of § 1396.262) by the manufacturer's March 1942 supplier to the manufacturer or to a purchaser of the same class as the manufacturer; or, lacking a March 1942 supplier of the material, by the manufacturer's most recent supplier of the material; or, lacking both of these, by the manufacturer's potential supplier: *Provided,* That if the Office of Price Administration has established a lower maximum price for the sale of the material to the manufacturer by his supplier, or if actual purchase prices are lower, such lower prices shall govern.

(3) *Operating conditions.* Using the wage rates and material prices determined under (1) and (2), the manufacturer shall compute the cost per unit of direct labor and materials for the private formula product being priced on the basis of the productive technique employed in his plant at the time of mailing the report required under paragraph (e) of this section and on the basis of the contemplated volume of production.

(c) *Percentage mark-up over unit direct cost obtained on the comparable private formula product.* The percentage mark-up over unit direct cost obtained on the comparable private formula product shall be computed in the following manner:

(1) Determine the actual cost of direct labor per unit of such comparable private formula product at the time it was manufactured.

(2) Determine the actual cost of materials per unit of such comparable private formula product at the time it was manufactured.

(3) Determine the price per unit at which the sale of the comparable private formula product was made.

(4) Compute the percentage of mark-up by subtracting the sum of direct labor cost or unit determined under (1) and materials cost per unit determined under (2) from the selling price determined under (3), and dividing the resultant figure by the sum of direct labor cost per unit (1) and materials cost per unit (2).

(d) *Price differentials.* All discounts (except quantity discounts and discounts to different kinds of purchasers), trade practices and practices relating to the payment of shipping charges in effect on the sale of the comparable private formula product by the manufacturer determining a maximum price pursuant to this section, shall apply to the maximum price so determined.

(e) *Reports of maximum prices.* Manufacturers of private formula pharmaceutical, proprietary drug and cosmetic products for which maximum prices are established by this section shall, before making any delivery of any such private formula product, submit by registered mail to the Office of Price Administration in Washington, D. C., a statement setting forth the maximum price determined under this section and all relevant facts. After the statement has been sent to the Office of Price Administration, the manufacturer may sell and deliver the private formula product at the proposed price, but the prices at which such sales or deliveries are made prior to the expiration of fifteen days from the date of mailing the statement to the Office of Price Administration shall be subject to disapproval in writing by the Office of Price Administration, and, if required by the Office of Price Administration, refunds shall be made. If at the expiration of fifteen days from the date of receipt of the statement, the Office of Price Administration has not in writing disap-

proved the manufacturer's proposed price, the manufacturer may thereafter continue to sell and deliver such private formula product at prices not in excess of his proposed price unless and until the Administrator establishes a lower maximum price. The statement submitted to the Office of Price Administration shall include:

(1) The name and a description or quantitative formula of the private formula product being priced, the process of manufacture, and a statement as to which of the classes of private formula products listed in § 1396.262 (a) (4) and (5) it belongs;

(2) The name and address of the purchaser, the quantity sold, and the dates of manufacture and of prospective delivery;

(3) The proposed maximum sales price computed under this section and the terms of sale (i. e., delivered, f. o. b. shipping point, cash discount, or other);

(4) The name and a description or quantitative formula of the comparable private formula product, the process of manufacture, a statement as to which of the classes of private formula products listed in § 1396.262 (a) (4) and (5) it belongs, and the quantity sold;

(5) An itemized statement showing the computation of the maximum price, including the following information:

(i) For the private formula product being priced:

(*a*) Direct labor cost per unit based on March 31, 1942 average wage rates, showing labor hours and March 31, 1942 average hourly wage rates.

(*b*) List of materials used in the manufacture of the product; ceiling or actual purchase price, whichever is lower, of each material used in the calculation of materials cost per unit; materials cost per unit based on ceiling prices or actual purchase prices, whichever are lower; and name and address of the supplier of each material whose ceiling price or actual selling price was used in the calculation of materials cost per unit.

(ii) For the comparable private formula product:

(*a*) Actual direct labor cost per unit.

(*b*) Actual cost of materials per unit.

(*c*) Selling price per unit.

(f) *Subsequent sales.* After a maximum price for the sale of a private formula pharmaceutical, proprietary drug, or cosmetic product has been determined in the manner provided in this section, such maximum price shall apply to all subsequent sales of the same private formula product which do not vary in quantity by more than 20% from the quantity of the sale for which such maximum price was determined. Reports relating to such subsequent sales need not be submitted to the Office of Price Administration pursuant to paragraph (e) of this section. Maximum price for subsequent sales of the same private formula product which do vary in quantity by more than 20% from the quantity of the sale for which a maximum price was determined under this section shall be redetermined in the manner provided in this section, and the report required by paragraph (e) of this section shall be submitted to the Office of Price Administration.

§ 1396.255 *Maximum prices for private formula pharmaceutical, proprietary drug and cosmetic products which cannot be priced under §§ 1396.253 and 1396.254.*—(a) *Maximum prices.* The maximum price for a sale by a manufacturer of any private formula pharmaceutical, proprietary drug or cosmetic product which cannot be priced under § 1396.253 or § 1396.254 shall be the price, in line with the level of maximum prices established by this Maximum Price Regulation No. 282, specifically authorized by the Office of Price Administration.

(b) *Reports of maximum prices.* Prior to first offering the private formula product for sale, the manufacturer shall submit to the Office of Price Administration, Washington, D. C., a report applying for a specific authorization of a maximum price. The report shall contain the information regarding the private formula product specified in paragraph (e) of § 1396.254, a statement of the facts which make it necessary to price the product under this section, and the proposed maximum price with a detailed explanation of its computation.

§ 1396.256 *Export sales.* The maximum prices at which a person may export a private formula pharmaceutical, proprietary drug or cosmetic product shall be determined in accordance with the provisions of the Revised Maximum Export Price Regulation[1] issued by the Office of Price Administration.

§ 1396.257 *Evasion.* The price limitations set forth in this Maximum Price Regulation No. 282 shall not be evaded, whether by direct or indirect methods, in connection with an offer, solicitation, agreement, sale, delivery, purchase or receipt of, or relating to, a private formula pharmaceutical, proprietary drug or cosmetic commodity, alone or in conjunction with any other commodity or by way of commission, service, transportation, or other charge, or discount, premium or other privilege, or by tying-agreement or other trade understanding, or otherwise.

§ 1396.258 *Petitions for amendment.* Any person seeking an amendment of any provision of this Maximum Price Regulation No. 282 may file a petition for amendment in accordance with the provisions of Revised Procedural Regulation No. 1.

§ 1396.259 *Enforcement.* Persons violating any provisions of this Maximum Price Regulation No. 282 are subject to the criminal penalties, civil enforcement actions, and suits for treble damages provided for by the Emergency Price Control Act of 1942, as amended.

§ 1396.260 *Effect of other price regulations.* This Maximum Price Regulation No. 282 shall not apply to any sale or delivery of a private formula pharmaceutical, proprietary drug and cosmetic product for which a maximum price is in effect at the time of such sale or delivery under the provisions of any other price regulation issued, or which may be issued, by the Office of Price Administration. The General Maximum Price Regulation shall not apply to sales or deliveries of private formula pharmaceutical, proprietary drug and cosmetic products (as defined in paragraph (a) of § 1396.262), except as provided in § 1396.251 and paragraph (c) of § 1396.252.

§ 1396.261 *Geographical applicability.* The provisions of this Maximum Price Regulation No. 282 shall be applicable to the forty-eight states and the District of Columbia, but not to the territories and possessions of the United States.

§ 1396.262 *Definitions.* (a) When used in this Maximum Price Regulation No. 282, the term:

(1) "Private formula product" means a product produced by the manufacturer according to the specifications of the buyer or according to samples approved by the buyer, and sold by the manufacturer under the label or brand name of the buyer, and belonging to one of the classes of products listed in subparagraphs (4) and (5): *Provided,* That a product sold by a manufacturer to a distributor where the manufacturer owns 25 per cent or more of the stock or assets of the distributor, or where the distributor owns 25 per cent or more of the stock or assets of the manufacturer, or where a third person owns 25 per cent or more of the stock or assets of the manufacturer and the distributor, shall not be considered a private formula product.

(2) "Comparable private formula product" means a private formula pharmaceutical, proprietary drug or cosmetic product which belongs to the same class of pharmaceutical, proprietary drug or cosmetic products specified in subparagraphs (4) and (5), in addition to having the same form (for example, liquid, powder, tablet, paste), as the private formula product being priced.

(3) "Purchaser of the same class" refers to the practice adopted by the seller in setting different prices for commodities for sales to different purchasers or kinds of purchasers (for example, manufacturer, wholesaler, jobber, retailer, government agency, public institution, individual consumer) or for purchasers located in different areas or for different quantities or grades or under different conditions of sale.

(4) "Pharmaceutical and proprietary drug products" means all medicines and preparations for internal and external

[1] 7 F.R. 5059, 7242, 8823, 9000.

use, intended to be used for the cure, mitigation, or prevention of disease of man or animals, included in the following classes:

PHARMACEUTICALS AND PROPRIETARY DRUGS

Absorbent vehicles.
Absorbents.
Adjuvants.
Alteratives.
Analeptics
Analgesics.
Anaphorodisiacs.
Anticonvulsants.
Antiscorbutics.
Antiseptics.
Anhydrotics.
Anodynes.
Antacids.
Anthelmintics.
Antiasmatics.
Antidotes.
Antilithics.
Anti-malarial.
Antineuralgics.
Antiperiodics.
Antiphlogistics.
Antipyics.
Antipyretics.
Antirheumatics.
Antisclerotics.
Anesthetics.
Antispasmotics.
Antisyphilitics.
Antizymotics.
Aphrodisiacs.
Astringents.
Cardiac depressants.
Cardiac stimulants.
Carminatives.
Cathartics.
Caustics.
Cholagogues.
Corrosives.
Cough sedatives.
Counter irritants.
Demulcents.
Dentifrices.
Deodorants.
Detergents.
Diaphoretics.
Digestants
Discutients.
Disinfectants.
Diuretics.
Ecbolics.
Emetics.
Emmenagogues.
Emollients.
Errhines.
Escharotics.
Expectorants.
Ferbifuges.
Galactalogues.
Gargles.
Germicides.
Heart stimulants.
Heart tonics.
Hematinics.
Hemostatics.
Hepatic stimulants.
Hydragogues.
Hypnotics.
Laxatives.
Mouth washes.
Mydriotics.
Myotics.
Narcotics.
Nerve sedatives.
Nerve stimulants.
Nutrients.
Oxytocics.
Parasiticides.
Prophylactics.
Protectives.
Purgatives.
Respiratory stimulants
Rubefacients.
Sedatives.
Somnifacients.
Soporifics.
Sorbefacients.
Stimulants.
Stomachics.
Styptics.
Supportives.
Synergists.
Teniacides.
Uterine stimulants.
Vasoconstrictors.
Vasodialators.
Vermicides.
Vermifuges.
Vesical sedatives.
Vitamins.
Vulnariaries.

(5) "Cosmetic product" means articles, materials and preparations of whatever composition or in whatever form, commonly or commercially known as toilet goods, for use in cleansing, deodorizing, beautifying, preserving, restoring, or otherwise caring for the human body, included in the following classes:

After shave lotions.
After shave powders.
Alcoholic cleansing lotions.
Alcoholic hair lotions.
Alcoholic hair tonics.
All-purpose creams.
Anti-chap pomades.
Anti-perspirants.
Astringents (all kinds).
Baby oils.
Baby powders.
Bath milks.
Bath mits (soap and powder).
Bath powders.
Bath salts.
Bleach creams.
Bleach lotions.
Blemish concealers.
Body lotions.
Body oils.
Body powders.
Body rubs.
Brilliantines.
Brushless shaving cream.
Cake powders.
Cleansing creams.
Cold wave solutions.
Compact for wet application.
Concentrated wave sets.
Cosmetic stockings (all kinds).
Covedorants.
Creams.
Cream cologne.
Cream face packs.
Cream lip colorings.
Cream rouge.
Cream suntan simulatives.
Cream suntan preventatives.
Cuticle oils.
Cuticle removers.
Cuticle softeners.
Denture cleansers.
Denture and plate holders.
Deodorants.
Depilatories.
Dry shampoos.
Dusting powders.
Eye creams.
Eye drops.
Eye mascaras.
Eye shadows.
Eye washes.
Eyebrow dyes.
Eyebrow pencils.
Eyelash dyes.
Eyelash curlers.
Eyelashes.
Face packs.
Facial oils.
Foot astringents.
Foot creams.
Foot oils.
Foot powders.
Freckle creams.
Freckle removers.
Foundation creams.
Friction lotions.
Hair bleaches.
Hair dyes.
Hair lacquers.
Hair oils.
Hair pomades.
Hair rinses.
Hair straighteners.
Hair tints.
Hand creams.
Hand lotions.
Lip pomades.
Lip color brushes.
Lip cream.
Lipsticks.
Liquid colognes.
Liquid face lotions.
Liquid face packs.
Liquid powder.
Liquid rouge.
Liquid shaving creams.
Liquid suntan preventatives.
Liquid tooth cleansers.
Liquid wave sets.
Lotions.
Lubricating creams.
Mouth washes.
Nail enamels.
Nail enamel removers.
Nail polishes—cake.
Nail protectors (liquid).
Nail whiteners.
Non-alcoholic cleansing lotions.
Non-alcoholic hair lotions.
Non-oily hair dressings.
Oil suntan preventatives.
Oily hair-dressings.
Oily shampoos.
Pancake make-ups.
Paste nail polishes.
Paste perfumes.
Perfumed oatmeal bath water softeners.
Perfumed petroleum jellies.
Perfumes—liquid.
Permanent wave creams.
Peroxides for hair.
Plucking creams.
Powders.
Powder bases.
Powders—cake.
Powdered face packs.
Powdered wave sets.
Pressing oils.
Protective creams.
Protective lotions.
Rouges—cake.
Sachet hangers.
Sachet lacquers.
Sachet mits.
Sachet pot pourris.
Sachet powders.
Scalp creams.
Scalp lotions.
Scalp ointments.
Scalp oils.
Shampoo soaps.
Shaving creams.
Shaving soaps.
Skin applicators.
Skin fresheners.
Skin patters.
Skin tonics.
Soapless shampoos.
Solid perfumes.
Solid colognes.
Stick shaving creams.
Talcum powders.
Theatrical make-ups.
Suntan simulatives.
Sunburn remedies.
Tinted lip pomades.
Toilet waters.
Tooth paste cleaners.
Tooth powder cleansers.
Unperfumed petroleum jellies.
Untinted lip pomades.
Vanishing creams.
Witch hazel.

(6) "Highest price charged during March 1942" means:

(i) The highest price which the seller charged to a purchaser of the same class for delivery of the commodity during March 1942.

(ii) If the seller made no such delivery during March 1942, such seller's highest offering price to a purchaser of the same class for delivery during that month.

(iii) If the seller made no such delivery and had no such offering price to a purchaser of the same class, the highest price charged by the seller during March 1942, to a purchaser of a different class, adjusted to reflect the seller's customary differential between the two classes of purchasers.

(7) "Quantity" shall be measured in the usual physical unit in which the product is sold.

(b) Unless the context otherwise requires, the definitions set forth in section 302 of the Emergency Price Control Act of 1942, as amended, shall apply to other terms used herein.

§ 1396.263 *Effective date.* This Maximum Price Regulation No. 282 shall become effective December 14, 1942.

Issued this 9th day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-13068; Filed, December 9, 1942; 2:50 p. m.]

PART 1499—COMMODITIES AND SERVICES

[Supp. Reg. 14[1] to GMPR,[2] Amendment 70]

MODIFICATION OF MAXIMUM PRICES FOR CERTAIN COMMODITIES, ETC.

A statement of the considerations involved in the issuance of this amendment has been issued simultaneously herewith and filed with the Division of the Federal Register.*

A new subparagraph (48) is added to paragraph (a) of § 1499.73 as set forth below:

§ 1499.73 *Modification of maximum prices established by § 1499.2 of General Maximum Price Regulation for certain commodities, services and transactions.* (a) The maximum prices established by § 1499.2 of the General Maximum Price Regulation for the commodities, services, and transactions listed below are modified as hereinafter provided: * * *

(48) *Grain warehousing in the state of Idaho.* Maximum prices for storage of grain and for services incident thereto, performed by warehouses situated in the state of Idaho, shall continue to be determined under the provisions of the General Maximum Price Regulation, except that the maximum prices for the following services, when performed for persons other than the United States Government or any agency thereof, shall be as follows:

Storage of grain in warehouses, 15c per ton per month, with 30 days free storage.

Handling in and out of warehouses, $1.00 per ton.

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*Copies may be obtained from the Office of Price Administration.

[1] 7 F.R. 5486, 5709, 6008, 6011, 6008, 6271, 6369, 6477, 6473, 6774, 6775, 6793, 6887, 6892, 6776, 6939, 7011, 7012, 6965, 7250, 7289, 7203, 7365, 7401, 7453, 7400, 7510, 7536, 7604, 7538, 7511, 7536, 7535, 7739, 7671, 7812, 7914, 7946, 8237, 8024, 8199, 8351, 8353, 8524, 8652, 8707, 8881, 8899, 8899, 9082, 8950, 9131, 8953, 8954, 8955, 8959, 9043, 9043, 9196, 9196, 9397, 9391, 9395, 9495, 9496, 9496, 9639.

[2] 7 F.R. 3153, 3330, 3666, 3990, 3991, 4339, 4487, 4659, 4738, 5027, 5276, 5192, 5265, 5445, 5775, 5784, 5783, 6058, 6081, 5484, 5505, 6007, 6216, 6615, 6794, 6939, 7093, 7322, 7454, 7758, 7913, 8431, 8881, 9004, 8942, 9436, 9615, 9616.

(b) *Effective dates.* * * *

(77) Amendment No. 76 (§ 1499.73 (a) (48)) to Supplementary Regulation No. 14 shall become effective on December 9, 1942.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871).

Issued this 9th day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-13069; Filed, December 9, 1942; 2:48 p. m.]

PART 1499—COMMODITIES AND SERVICES

[Order 169 Under § 1499.3 (b) of GMPR]

M J B COMPANY

For the reasons set forth in an opinion issued simultaneously herewith, *It is ordered:*

§ 1499.1185 *Authorization of a maximum price for sales of M J B Brand of roasted coffee.* (a) The M J B Company, 665 Third Street, San Francisco, California, may sell and deliver and any person may buy and receive from M J B Company the following commodity at a price not higher than that set forth below:

(i) One quarter of a pound M J B Brand coffee packed in vacuum tin containers at $0.10 per one quarter pound.

(ii) M J B Company shall not change the customary discounts, allowances, price differentials, and trade practices which existed in March, 1942, for the same brand packed in one pound vacuum glass jars unless such change results in a lower selling price.

(b) M J B Company shall mail or otherwise supply to their buyers at the time of or prior to the first sale or delivery to such buyer the following written statement:

The Office of Price Administration has authorized the M J B Company to sell one quarter pound M J B Brand roasted coffee packed in a vacuum tin container at a maximum delivered price of $0.10 per one quarter pound unit. Sales at this price are subject to all discounts, allowances, price differentials and trade practices which we had in effect in March, 1942 for sales of the same brand in one pound vacuum jars.

(c) This Order No. 169 may be revoked or amended by the Price Administrator at any time.

(d) This Order No. 169 (§ 1499.1185) shall become effective December 10, 1942.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 9th day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-13070; Filed, December 9, 1942; 2:47 p. m.]

PART 1499—COMMODITIES AND SERVICES

[Order 170 Under § 1499.3 (b) of GMPR]

O. C. MANUFACTURING CO.

For the reasons set forth in an opinion issued simultaneously herewith, *It is ordered:*

§ 1499.1186 *Approval of maximum prices for sales of Olympic Champion Apex Athletic Supporters by The O. C. Manufacturing Company.* (a) On and after December 10, 1942, The O. C. Manufacturing Company, a corporation having its principal place of business in Little Falls, New Jersey, may sell and deliver Olympic Champion Apex Athletic Supporters, and any person may buy Olympic Champion Apex Athletic Supporters from The O. C. Manufacturing Company at prices no higher than those hereinafter set forth:

Description	*Maximum price per gross*
Olympic Champion Apex Athletic Supporter No. 1	$60.00
Olympic Champion Apex Athletic Supporter No. 2	54.00
Olympic Champion Apex Athletic Supporter No. 3	66.00
Olympic Champion Apex Athletic Supporter No. 4	42.00
Olympic Champion Apex Athletic Supporter No. 5	48.00

(b) The O. C. Manufacturing Company shall apply to its maximum prices set forth in paragraph (a) for its sales of Olympic Champion Apex Athletic Supporters all quantity differentials, discounts for purchasers of different classes, trade practices, credit terms, practices relating to the payment of transportation costs, and any other customary discounts or allowances which were in effect in March, 1942, on its sales of comparable athletic supporters.

(c) This Order No. 170 may be revoked or amended by the Price Administrator at any time.

(d) This Order No. 170 (§ 1499.1186) shall become effective on December 10, 1942.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 9th day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-13071; Filed, December 9, 1942; 2:47 p. m.]

PART 1499—COMMODITIES AND SERVICES

[Order 171 Under § 1499.3 (b) of GMPR]

PERMANENTE METALS CORP.

For the reasons set forth in an opinion issued simultaneously herewith, *It is ordered:*

§ 1499.1187 *Approval of maximum prices for sales of synthetic carnallite flux by Permanente Metals Corporation.* (a) On and after December 10, 1942, the Permanente Metals Corporation, a corporation incorporated under the laws of the State of Delaware and doing business in the State of California, may sell and deliver synthetic carnallite flux and any person may buy synthetic carnallite flux from the Permanente Metals Corporation at prices no higher than the following, f. o. b. the Permanente, California, plant of the Permanente Metals Corporation:

Type of container and quantity	*Cents per pound*
25 lb. sealed containers	18.
100 lb. sealed containers	16.5
500 lb. sealed drums—less than 2,000 lb.	14.
500 lb. sealed drums—2,000 lbs. or more	12.5

(b) The maximum prices set forth in paragraph (a) of this Order No. 171 include charges for 25 pound and 100 pound containers. A deposit not to exceed $4.50 per drum may be charged for each 500 pound drum in addition to the maximum prices set forth in paragraph (a). Such deposit must be refunded in full upon the return of drums in good condition, transportation expenses for such return to be borne by the Permanente Metals Corporation.

(c) On or before March 15, 1943, the Permanente Metals Corporation shall furnish the Office of Price Administration in Washington, D. C., with a statement reporting in detail its costs of producing synthetic carnallite flux for each month of the period from December 1, 1942 to March 1, 1943.

(d) When used in this Order No. 171 "synthetic carnallite flux" means fused magnesium and potassium chloride with or without ammonium chloride.

(e) This Order No. 171 shall terminate on May 15, 1943, unless it is previously revoked by the Price Administrator.

(f) This Order No. 171 may be revoked or amended by the Price Administrator at any time.

(g) This Order No. 171 (§ 1499.1187) shall become effective on December 10, 1942.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 9th day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-13072; Filed, December 9, 1942; 2:46 p. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

Chapter II—Office of Defense Transportation

[General Permit ODT 20-1]

PART 521—CONSERVATION OF MOTOR EQUIPMENT—EXCEPTIONS, PERMITS, AND EXEMPTIONS

SUBPART L—TAXICABS AND TAXI SERVICE

DELIVERY OF TELEGRAPHIC, ETC., COMMUNICATIONS IN EMERGENCIES

Pursuant to the provisions of § 501.84, General Order ODT 20, as amended,[1] it is hereby authorized that:

§ 521.3400 *Delivery of telegraphic, etc., communications in emergencies.* Notwithstanding the provisions of paragraph (c), § 501.82, General Order ODT 20, as amended, any taxicab may be utilized for the delivery of telegraphic, cable, and radio communications, in emergencies when another medium of delivery cannot be obtained or is not available to

[1] 7 F.R. 6306, 7694.

effect delivery in time for such communications to serve their purpose.

This general permit shall become effective December 10, 1942, and shall remain in full force and effect until further order of the Office of Defense Transportation.

(E.O. 8989, 9156; 6 F.R. 6725, 7 F.R. 3349; General Order O.D.T. 20, as amended, 7 F.R. 6906, 7694)

Issued at Washington, D. C., this 10th day of December 1942.

JOSEPH B. EASTMAN,
Director of Defense Transportation.

[F. R. Doc. 42-13094; Filed, December 10, 1942; 11:52 a. m.]

Notices

DEPARTMENT OF LABOR.

Wage and Hour Division.

LEARNER EMPLOYMENT CERTIFICATES

ISSUANCE TO VARIOUS INDUSTRIES

Notice of issuance of special certificates for the employment of learners under the Fair Labor Standards Act of 1938.

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum rate applicable under section 6 of the Act are issued under section 14 thereof and § 522.5 (b) of the Regulations issued thereunder (August 16, 1940, 5 F.R. 2862) to the employers listed below effective December 10, 1942.

The employment of learners under these Certificates is limited to the terms and conditions as designated opposite the employer's name. These Certificates are issued upon the employers' representations that experienced workers for the learner occupations are not available for employment and that they are actually in need of learners at subminimum rates in order to prevent curtailment of opportunities for employment. The Certificates may be cancelled in the manner provided for in the Regulations and as indicated on the Certificate. Any person aggrieved by the issuance of these Certificates may seek a review or reconsideration thereof.

NAME AND ADDRESS OF FIRM, PRODUCT, NUMBER OF LEARNERS, LEARNING PERIOD, LEARNER WAGE, LEARNER OCCUPATIONS, EXPIRATION DATE

Bert Manufacturing Co., Irvington-on-Hudson, New York; Diaries; 15 learners; 6 weeks for any one learner at 30¢ per hour; Making Diaries productive operations involved; February 4, 1943.

S. Heinemann, 207 Walnut Street, Newport, Arkansas; Fresh water pearl buttons; 1 learner; 12 weeks for any one learner 30 cents for the first 8 weeks and 35¢ for the next 4 weeks; Cutter; June 10, 1943.

Pioneer Pearl Button Company, 253 Mansion Street, Poughkeepsie, New York; Fresh water pearl buttons; 14 learners; 4 weeks for any one learner 30¢ per hour; Automatic button machine operator and Grinder; January 14, 1943.

Pioneer Pearl Button Company, 253 Mansion Street, Poughkeepsie, New York; Fresh Water Pearl Buttons; 5 learners; 12 weeks for any one learner 30 cents for the first 8 weeks and 35¢ for the next 4 weeks; Finished Button Sorter; March 11, 1943.

Tennessee River Pearl Button Company, Clifton, Tennessee; Fresh Water Pearl Buttons; 2 learners; 12 weeks for any one learner, 30¢ for the first 8 weeks and 35 cents for the next 4 weeks; Cutter; June 10, 1943.

Signed at New York, N. Y., this 8th day of December 1942.

MERLE D. VINCENT,
Authorized Representative of the Administrator.

[F. R. Doc. 42-13077; Filed, December 9, 1942; 4:50 p. m.]

LEARNER EMPLOYMENT CERTIFICATES

ISSUANCE TO VARIOUS INDUSTRIES

Notice of issuance of special certificates for the employment of learners under the Fair Labor Standards Act of 1938.

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum wage rate applicable under section 6 of the Act are issued under section 14 thereof, Part 522 of the Regulations issued thereunder (August 16, 1940, 5 F.R. 2862, and as amended June 25, 1942, 7 F.R. 4723), and the Determination and Order or Regulation listed below and published in the FEDERAL REGISTER as here stated.

Apparel Learner Regulations, September 7, 1940 (5 F.R. 3591).

Single Pants, Shirts and Allied Garments, Women's Apparel, Sportswear, Rainwear, Robes, and Leather and Sheep-Lined Garments Divisions of the Apparel Industry, Learner Regulations, July 20, 1942 (7 F.R. 4724).

Artificial Flowers and Feathers Learner Regulations, October 24, 1940 (5 F.R. 4203).

Glove Findings and Determination of February 20, 1940, as amended by Administrative Order of September 20, 1940 (5 F.R. 3748).

Hosiery Learner Regulations, September 4, 1940 (5 F.R. 3530).

Independent Telephone Learner Regulations, September 27, 1940 (5 F.R. 3829).

Knitted Wear Learner Regulations, October 10, 1940 (5 F.R. 3982).

Millinery Learner Regulations, Custom Made and Popular Priced, August 29, 1940 (5 F.R. 3392, 3393).

Textile Learner Regulations, May 16, 1941 (6 F.R. 2446).

Woolen Learner Regulations, October 30, 1940 (5 F.R. 4302).

Notice of Amended Order for the Employment of Learners in the Cigar Manufacturing Industry, July 20, 1941 (6 F.R. 3753).

The employment of learners under these Certificates is limited to the terms and conditions as to the occupations, learning periods, minimum wage rates, et cetera, specified in the Determination and Order or Regulation for the industry designated above and indicated opposite the employer's name. These Certificates become effective December 10, 1942. The Certificates may be cancelled in the manner provided in the Regulations and as indicated in the Certificates. Any person aggrieved by the issuance of any of these Certificates may seek a review or reconsideration thereof.

NAME AND ADDRESS OF FIRM, INDUSTRY, PRODUCT, NUMBER OF LEARNERS AND EXPIRATION DATE

Apparel Industry

Acme Clothing Co., 126 Shove St., Fall River, Massachusetts; Boys' and Student's Clothing; 10 percent (T); December 10, 1943.

Western Neckwear Company, 88 First Street, San Francisco, California; Men's Neckwear; 2 learners (T); December 10, 1943.

Single Pants, Shirts & Allied Garments, Women's Apparel, Sportswear, Rainwear, Robes, and Leather and Sheep-Lined Garments Divisions of the Apparel Industry

Acme Manufacturing Co., 1123 Washington Ave., St. Louis, Missouri; Ladies' Wearing Apparel; 5 learners (T); December 10, 1943.

Biberman Bros., Inc., 200 Maryland Ave., Wilmington, Delaware; Dresses; 5 learners (T); December 10, 1943.

Samuel Coane, 232/248 N. 11th St., Philadelphia, Pennsylvania; Cotton Pants, Wool and Cotton Pants, and Wool and Cotton Coats; 7 learners (T); December 10, 1943.

Happ Brothers Company, Macon, Georgia; Men's and Boys' Pants; 10 percent (T); December 10, 1943.

The H. Harris Company, 174 East Fourth St., St. Paul, Minnesota; Leather Sport Jackets; 10 percent (T); December 10, 1943.

Imperial Shirt Company, Plant #1, West Bangor, Pennsylvania; Ladies' Sportwear; 10 percent (T); December 10, 1943.

Casey Jones, Inc., Woodstock, Virginia; Navy Dungarees; 10 learners (T); December 10, 1943.

Casey Jones, Inc., Shenandoah, Virginia; Navy Work Clothing; 10 learners (T); December 10, 1943.

Casey Jones, Inc., Mt. Jackson, Virginia; Work Clothing; 10 learners (T); December 10, 1943.

Casey Jones, Inc., Luray, Virginia; Navy Work Clothing; 10 percent (T); December 10, 1943.

Casey Jones, Inc., Elkton, Virginia; Navy Work Clothing; 10 learners (T); December 10, 1943.

D. L. Marx Company, 2711-13 Commercial St., Cairo, Illinois; Overalls, Cotton Playsuits, Cotton Pants, Coats, One Piece Work Suits, etc.; 9 learners (T); June 10, 1943. (This certificate replaces the one you now have for ten percent, bearing the expiration date of May 11, 1943.)

Mutual Garment Company, Main & Cedar Sts., Washington, Missouri; Slips, Nightgowns, Pajamas; 9 learners (T); December 10, 1943.

New England Company, 80 Langdon St., Roxbury, Massachusetts; White Duck

Clothing, Work Clothing, Government Garments; 10 percent (T); December 10, 1943.

Ottenheimer Bros., Inc., 115 Wood Lane, Little Rock, Arkansas; Women's Cotton Uniforms (defense workers) Cotton Dresses and Smocks; 10 percent (T); December 10, 1943.

Salant and Salant, Inc., Parsons, Tennessee; Cotton Work Pants, Cotton Work Shirts; 10 percent (T); December 10, 1943.

Somerset Mfg. Co., Depot Square, Somerville, New Jersey; Beach Wear and Snow Suits; 8 learners (T); December 10, 1943.

Stone Manufacturing Co., 25 E. Court St., Greenville, S. C.; Ladies' Cotton Slips, Maids' Lawn Aprons, Children's Sunsuits, Pajamas, Underwear, etc.; 10 percent (T); December 10, 1943.

Unity Shirt Company, 300 Seymour Ave., Derby, Connecticut; Men's Shirts; 10 percent (T); December 10, 1943.

The Hallmark Shirt Company, Inc., Davidson St., Clinton, South Carolina; Shirts for U. S. Army, Men's Dress Shirts, Sport Shirts; 27 learners (E); June 10, 1943.

Glove Industry

Glovecraft, Inc., Ephratah, New York; Leather Dress Gloves; 12 learners (E); June 10, 1943.

Tennessee Glove Company, Inc., South Atlantic Street, Tullahoma, Tennessee; Work Gloves; 5 learners (T); December 10, 1943.

Wells Lamont Smith Corporation, Elsberry, Missouri; Work Gloves; 5 percent (T); December 10, 1943.

Hosiery Industry

The Alden Mills, Meridian, Mississippi; Seamless Hosiery; 5 percent (T); December 10, 1943.

Culpepper Hosiery Mills, 855 Jefferson Ext., Danville, Virginia; Seamless Hosiery; 5 learners (T); December 10, 1943.

Textile Industry

Adams Net and Twine Company, 701 North 2nd Street, St. Louis, Missouri; Camouflage Nets, Fish Nets, Tennis Nets; 3 learners (T); December 10, 1943.

Elysburg Silk Throwing Company, Inc., Elysburg, Pennsylvania; Rayon, Nylon, Synthetic Yarn; 3 learners (T); December 10, 1943.

Mercer Silk Mills, 347 East Market Street, Mercer, Pennsylvania; Burial Blankets; 1 learner (T); December 10, 1943.

Signed at New York, N. Y., this 8th day of December 1942.

MERLE D. VINCENT,
Authorized Representative of the Administrator.

[F. R. Doc. 42-13078; Filed, December 9, 1942; 4:50 p. m.]

BOARD OF ECONOMIC WARFARE.

[Compliance Case Docket No. 4]

NIAGARA EXPORT & IMPORT CO. AND WILLIAM R. SHEPHERD

DECISION AND ORDER ON APPEAL

Pursuant to Part 807 of the Regulations adopted under section 6 of the Act of July 2, 1940, as amended, the Chief of the Trade Intelligence Division of the Export Control Branch, Office of Exports, charged the Niagara Export & Import Co., 44 Beaver Street, New York City, and William R. Shepherd, at the same address, (hereinafter referred to as appellants) with violations of Proclamation 2497 authorizing a Proclaimed List of Certain Blocked Nationals and Controlling Certain Exports issued in part under the authority of said section. The appellants filed a written answer to the charges above set forth.

The Compliance Commissioner, duly designated under § 807.1 of the aforesaid Regulations, reviewed the record, and filed his findings of fact and recommendations in the matter. The Compliance Commissioner found and concluded that the appellants exported prohibited commodities to and for the account of Carlos Niemtschik, also known as Carlos Niemtschik & Cia, of Caracas, Venezuela, at a time when the name of "Hauck" S. A. appeared on the Proclaimed List of Certain Blocked Nationals; that such exportations were for and on behalf of the said "Hauck" S. A., were without license or certificate of hardship, and as such violated section 6 of the Act of July 2, 1940, as amended, and the aforesaid Proclamation of the President of the United States issued pursuant thereto.

Upon consideration of the record, findings of fact and recommendation in this matter, the Acting Chief, Export Control Branch of the Office of Exports of the Board of Economic Warfare, on October 28, 1942, revoked all export licenses theretofore issued to appellants for exports not then consummated and denied to appellants and any person, association, or organization acting on their behalf or for their account the privilege of obtaining individual export licenses and the use of any general or unlimited export licenses for the duration of the war.

Appellants were duly notified of said order and within ten (10) days of said notice and pursuant to § 807.11 of the aforesaid regulations duly filed a written appeal to the Assistant Director in Charge of the Office of Exports. The undersigned Assistant Director has considered the record in this matter and has concluded that the facts and conclusions of the Compliance Commissioner are supported by the record. He has concluded, however, that the disciplinary action ordered by the Acting Chief of the Export Control Branch should be modified by limiting the suspension to a period of eighteen (18) months if that is a shorter period than the duration of the war.

Now therefore it is determined and ordered, That:

(1) The order of the Acting Chief, Export Control Branch of the Office of Exports, revoking all export licenses heretofore issued to W. R. Shepherd, also known as William R. Shepherd, and the Niagara Export & Import Co. not consummated as of October 28, 1942, is affirmed.

(2) W. R. Shepherd, also known as William R. Shepherd, and the Niagara Export & Import Co., and any person, association, or organization acting on behalf of, or for the account of either of them, are denied the privilege of obtaining individual export licenses and the use of any general or unlimited export license for any exports whatsoever from the United States for the duration of the war or for eighteen (18) months from the date of October 28, 1942, whichever is the shorter period.

Dated: December 5, 1942.

HECTOR LAZO,
Assistant Director in Charge of Exports, Office of Exports.

[F. R. Doc. 42-13053; Filed, December 9, 1942; 2:40 p. m.]

CIVIL AERONAUTICS BOARD.

[Docket No. SA-69]

AIRCRAFT ACCIDENT OCCURRING NEAR DAYTON, OHIO

NOTICE OF HEARING

In the matter of investigation of accident involving aircraft of United States Registry No. 17320, which occurred at Dayton, Ohio, on June 27, 1942.

Notice is hereby given that hearing scheduled for December 11, 1942, in the above-entitled proceeding, has now been postponed until December 18, 1942, at 10:30 AM (EWT) in the Transcontinental and Western Air Hangar Number 6, La Guardia Field, New York, New York. (Previous notice of this hearing appeared in the FEDERAL REGISTER of December 9, 1942.)

Dated at Washington, D. C., December 9, 1942.

[SEAL] S. G. TIPTON,
Presiding Officer.

[F. R. Doc. 42-13036; Filed, December 10, 1942; 10:59 a. m.]

OFFICE OF PRICE ADMINISTRATION.

[General Order 40]

DELEGATION OF AUTHORITY TO REGIONAL ADMINISTRATORS

Pursuant to the authority conferred upon the Administrator by Executive Order No. 9125 and War Production Board Directive No. 1 and War Production Board Supplementary Directive No. 1R, the following order is prescribed:

(a) *Order delegating authority to issue suspension orders to Regional Administrators.* The several Regional Administrators of the Office of Price Administration are each authorized, within their respective regions, to determine whether any person has violated Ration Order No. 12, Coffee Rationing Regulations, and to issue such suspension orders and take such other action as may be appropriate in the premises.

(b) Subject to the authority of Paul M. O'Leary, Deputy Administrator in Charge of Rationing, to consider and determine petitions for reconsideration of suspension orders issued hereunder, any decision made, order issued or other action taken by the Regional Administrators pursuant to this delegation of authority shall have the same force and effect as if made, issued or taken by the Administrator.

(c) Nothing herein contained shall impair or affect the delegation of authority made in General Order No. 28 of July 15, 1942.[1]

(d) This Order shall take effect this 9th day of December 1942.

(Pub. Law 421, 507, 77th Cong.; E.O. 9125, 7 F.R. 2719; WPB Dir. No. 1, 7 F.R. 562; WPB Supp. Dir. No. 1R, 7 F.R. 9684)

Issued this 9th day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-13060; Filed, December 9, 1942; 2:51 p. m.]

[Order 2 Under MPR 135]

SWIFT & COMPANY

ORDER GRANTING PERMISSION FOR ADJUSTABLE PRICE

Order No. 2 under Maximum Price Regulation No. 135—Mixed Fertilizer, Superphosphate and Potash—Docket No. 3135-19.

For the reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register, and pursuant to the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order No. 9250, and in accordance with Revised Procedural Regulation No. 1, *It is ordered:*

(a) On and after December 10, 1942, Swift & Company, Chicago, Illinois, may sell and deliver mixed fertilizers, superphosphate, and potash manufactured by it at the respective applicable maximum prices, subject to agreement with the respective purchasers of such mixed fertilizers, superphosphate, and potash to adjust the prices thereof in accordance with the final disposition of the petition for adjustment filed by said company on November 16, 1942, in the Office of Price Administration.

(b) This Order No. 2 may be revoked or amended by the Price Administrator at any time, and in any event shall be effective only to the date upon which said petition for adjustment is finally disposed of by the Price Administrator.

(c) This Order No. 2 shall become effective December 10, 1942.

Issued this 9th day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-13054; Filed, December 9, 1942; 2:48 p. m.]

[Order 3 Under MPR 135]

F. W. TUNNELL & COMPANY, INC.

ORDER GRANTING PERMISSION FOR ADJUSTABLE PRICE

Order No. 3 Under Maximum Price Regulation No. 135—Mixed Fertilizer, Superphosphate and Potash—Docket No. 3135-21.

For the reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register, and pursuant to the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order No. 9250, and in accordance with Revised Procedural Regulation No. 1, *It is ordered:*

(a) On and after December 10, 1942, F. W. Tunnell & Company, Inc., Philadelphia, Pennsylvania, may sell and deliver mixed fertilizers manufactured by it at the applicable maximum prices, subject to agreement with the respective purchasers of such mixed fertilizers to adjust the prices thereof in accordance with the final disposition of the petition for adjustment filed by said company on November 18, 1942, in the Office of Price Administration.

(b) This Order No. 3 may be revoked or amended by the Price Administrator at any time, and in any event shall be effective only to the date upon which said petition for adjustment is finally disposed of by the Price Administrator.

(c) This Order No. 3 shall become effective December 10, 1942.

Issued this 9th day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-13055; Filed, December 9, 1942; 2:48 p. m.]

[Order 4 Under MPR 135]

GEORGIA FERTILIZER COMPANY

ORDER GRANTING PERMISSION FOR ADJUSTABLE PRICE

Order No. 4 under Maximum Price Regulation No. 135—Mixed Fertilizer, Superphosphate and Potash—Docket No. 3135-14.

For the reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register, and pursuant to the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order No. 9250, and in accordance with Revised Procedural Regulation No. 1, *It is ordered:*

(a) On and after December 10, 1942, the Georgia Fertilizer Company, Valdosta, Georgia, may sell and deliver mixed fertilizers, superphosphate, and potash manufactured by it at the respective applicable maximum prices, subject to agreement with the respective purchasers of such mixed fertilizers, superphosphate, and potash to adjust the prices thereof in accordance with the final disposition of the petition for adjustment filed by said company on October 29, 1942, in the Office of Price Administration.

(b) This Order No. 4 may be revoked or amended by the Price Administrator at any time, and in any event shall be effective only to the date upon which said petition for adjustment is finally disposed of by the Price Administrator.

(c) This Order No. 4 shall become effective December 10, 1942.

Issued this 9th day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-13056; Filed, December 9, 1942; 2:47 p. m.]

[Order 5 Under MPR 135]

THE VICTOR FERTILIZER COMPANY

ORDER GRANTING PERMISSION FOR ADJUSTABLE PRICE

Order No. 5 Under Maximum Price Regulation No. 135—Mixed Fertilizer, Superphosphate and Potash—Docket No. 3135-23.

For the reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register, and pursuant to the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order No. 9250, and in accordance with Revised Procedural Regulation No. 1, *It is ordered:*

(a) On and after December 10, 1942, The Victor Fertilizer Company, Chester, South Carolina, may sell and deliver mixed fertilizers, superphosphate, and potash manufactured by it at the respective applicable maximum prices, subject to agreement with the respective purchasers of such mixed fertilizers, superphosphate, and potash to adjust the prices thereof in accordance with the final disposition of the petition for adjustment filed by said company on November 20, 1942, in the Office of Price Administration.

(b) This Order No. 5 may be revoked or amended by the Price Administrator at any time, and in any event shall be effective only to the date upon which said petition for adjustment is finally disposed of by the Price Administrator.

(c) This Order No. 5 shall become effective December 10, 1942.

Issued this 9th day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-13057; Filed, December 9, 1942; 2:50 p. m.]

[Order 6 Under MPR 135]

F. S. ROYSTER GUANO CO.

ORDER GRANTING PERMISSION FOR ADJUSTABLE PRICE

Order No. 6 Under Maximum Price Regulation No. 135—Mixed Fertilizer, Superphosphate and Potash—Docket No. 3135-20.

For the reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register, and pursuant to the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order No. 9250, and in accordance with Revised Procedural Regulation No. 1, *It is ordered:*

(a) On and after December 10, 1942, the F. S. Royster Guano Co., Norfolk, Virginia, may sell and deliver mixed fertilizers, superphosphate, and potash manufactured by it at the respective applicable maximum prices, subject to agreement with the respective purchasers of such mixed fertilizers, superphosphate, and potash to adjust the prices thereof in accordance with the final disposition of the petition for adjustment filed by said company on November 17,

[1] 7 F.R. 5498, 9909.

1942, in the Office of Price Administration.

(b) This Order No. 6 may be revoked or amended by the Price Administrator at any time, and in any event shall be effective only to the date upon which said petition for adjustment is finally disposed of by the Price Administrator.

(c) This Order No. 6 shall become effective December 10, 1942.

Issued this 9th day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-13058; Filed, December 9, 1942; 2:49 p. m.]

[Order 17 Under MPR 147]

BUFFALO BOLT CO.

ORDER GRANTING PETITION FOR EXCEPTION

Order No. 17 Under Maximum Price Regulation No. 147—Ferrous and Non-Ferrous Bolts, Nuts, Screws and Rivets—Docket No. 3147-20.

On October 8, 1942, Buffalo Bolt Company, North Tonawanda, New York, filed a petition for exception pursuant to § 1368.7 (a) of Maximum Price Regulation No. 147. Due consideration has been given to the petition and an opinion in support of this Order No. 17 has been issued simultaneously herewith and has been filed with the Division of the Federal Register. For the reasons set forth in the opinion, under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order No. 9250, and by § 1368.7 (a) of Maximum Price Regulation No. 147 and in accordance with Revised Procedural Regulation No. 1, issued by the Office of Price Administration, *It is hereby ordered:*

(a) Buffalo Bolt Company in ascertaining the maximum price which it may charge for track bolts shipped from North Tonawanda, New York, to Eudora, Kansas, pursuant to the request of the Office of the Chief Engineer of the War Department, and for track bolts shipped after the effective date of this Order to points outside its usual market area pursuant to orders of the War Department, may calculate its delivery charges under Appendix C (§ 1368.14) of Maximum Price Regulation No. 147 from Pittsburgh, Pennsylvania as an emergency basing point.

(b) This Order No. 17 may be revoked or amended by the Price Administrator at any time.

(c) The definitions set forth in § 1368.8 of Maximum Price Regulation No. 147 shall apply to the terms used herein.

(e) This Order No. 17 shall become effective December 10, 1942.

(Pub. Laws 421 and 729, 77th Cong.; E.O. 9250, 7 F.R. 7871)

Issued this 9th day of December 1942.

LEON HENDERSON,
Administrator.

[F. R. Doc. 42-13059; Filed, December 9, 1942; 2:49 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File No. 54-47]

JACKSONVILLE GAS COMPANY

SUPPLEMENTAL ORDER APPROVING MODIFICATIONS OF PLAN AND DIRECTING APPLICATION TO COURT

At a regular session of the Securities and Exchange Commission held at its office in the City of Philadelphia, Pa., on the 8th day of December, A. D. 1942.

This Commission, on May 28, 1942, having issued its order approving the Plan, as then modified, of Jacksonville Gas Company to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935, subject to reservation of jurisdiction with respect to the proposed indenture, certificate of incorporation and similar documents pertaining to the company as should be prepared in connection with and prior to final consummation of the Plan, with respect to such matters as should require the further attention of the Commission in the proceeding under section 15 (f) of the Act, and with respect to such further amendments or modifications, if any, of the Plan, as the District Court of the United States for the Southern District of Florida should refer to the Commission for consideration; and

Pursuant to said order, counsel for the Commission having made application on behalf of the Commission to the District Court of the United States for the Southern District of Florida to enforce and carry out the terms and provisions of the Plan; and

Upon due notice and after hearings duly held, the District Court of the United States for the Southern District of Florida having filed its order, approving the Plan as fair and equitable, and as appropriate to effectuate the provisions of Section 11 of the Act, which order authorized and directed Jacksonville Gas Company, among other things, to do such acts as may be necessary or appropriate to carry out the terms and provisions of the Plan, including such acts, among others, as may be necessary to effect the organization of a new corporation under the laws of the State of Florida to be called "Jacksonville Gas Corporation", to cause Jacksonville Gas Corporation to execute, file and adopt a certificate of incorporation and by-laws subject to approval by the Commission and by the Court, to cause Jacksonville Gas Corporation to execute with The Florida National Bank of Jacksonville as Trustee a first mortgage and deed of trust subject to approval by the Commission and by the Court, to execute and file, and cause Jacksonville Gas Corporation to execute and file, subject to the approval of the Commission and of the Court, such documents as may be appropriate in connection with the consummation of the Plan, and to incur and pay or cause Jacksonville Gas Corporation to incur and pay taxes, charges, expenses, compensation and fees in connection with the consummation of the Plan in amounts not exceeding the sums estimated as part of the Plan, subject to obtaining approval of the Commission for all payments requiring such approval under the applicable rules and orders of the Commission; and

Jacksonville Gas Company having filed with the Commission Amendments No. 7, No. 8, and No. 9 to its Application; and

A public hearing having been held, after appropriate notice, and the Commission being fully advised in the premises and having this day made and filed its Second Supplemental Findings and Opinion herein; now therefore, on the basis of said Second Supplemental Findings and Opinion and pursuant to the applicable provisions of the Act and the applicable rules thereunder, *It is ordered,* That the proposed Certificate of Incorporation of Jacksonville Gas Corporation annexed as Exhibit Y (revised) to Amendment No. 7 to the Application of Jacksonville Gas Company herein be and the same is hereby approved.

It is further ordered, That the proposed By-Laws of Jacksonville Gas Corporation annexed as Exhibit Z (2nd revision) to Amendment No. 8 to the Application of Jacksonville Gas Company be and the same are hereby approved.

It is further ordered, That the proposed First Mortgage and Deed of Trust from Jacksonville Gas Corporation to The Florida National Bank of Jacksonville as Trustee, annexed as Exhibit R (2nd revision) to Amendment No. 8 to the Application of Jacksonville Gas Company be and the same is hereby approved.

It is further ordered, That the pro forma balance sheets of Jacksonville Gas Corporation as at December 31, 1941 and May 31, 1942 annexed as Exhibit H (2nd revision) and Exhibit H-A (revised) respectively to Amendment No. 8 to the Application of Jacksonville Gas Company be and the same are hereby approved.

It is further ordered, That the following modifications of the Plan be and the same are hereby approved:

1. Each holder of Income Debentures and Income Notes of Jacksonville Gas Company in an aggregate principal amount of less than $1,000 shall receive 1.5575 cents (to the nearest penny) for each dollar of such principal amount. Each holder of Income Debentures and Income Notes in an aggregate principal amount in excess of $1,000, but not an even multiple of $1,000, shall receive one share of common stock of Jacksonville Gas Corporation for each $1,000 of such principal amount and 1.5575 cents (to the nearest penny) for each dollar of the balance of such principal amount.

2. Jacksonville Gas Corporation shall reserve for issuance to such persons as may be entitled to all or part of the $18,159.50 principal amount of unissued Income Notes of Jacksonville Gas Company (held for issuance under the Plan of Reorganization of Jacksonville Gas Company confirmed by orders of the United States District Court for the

Southern District of Florida, dated February 20, 1935 and April 4, 1935) not exceeding 18 shares of the authorized and unissued common stock of Jacksonville Gas Corporation; such shares to be issued from time to time upon presentation of proper evidence of right thereto, on the basis of one share of such stock for each $1,000 principal amount of such unissued Income Notes. Each of the persons entitled, pursuant to said Plan of Reorganization of Jacksonville Gas Company confirmed in 1935, to receive unissued Income Notes of Jacksonville Gas Company in an aggregate principal amount of less than $1,000, shall receive 1.5575 cents (to the nearest penny) for each dollar of such principal amount. Each of the persons entitled, pursuant to said Plan of Reorganization of Jacksonville Gas Company confirmed in 1935, to receive unissued Income Notes of Jacksonville Gas Company in an aggregate principal amount in excess of $1,000, but not an even multiple of $1,000, shall receive one share of common stock of Jacksonville Gas Corporation for each $1,000 of such principal amount and 1.5575 cents (to the nearest penny) for each dollar of the balance of such principal amount. At the close of business on December 31, 1944 the right to receive such stock and cash on account of said unissued Income Notes shall expire and be of no effect, except as to those shares and cash for which demand shall have been duly made on Jacksonville Gas Corporation by or on behalf of the persons entitled thereto on or prior to said date. Notice of the right conferred upon persons entitled to said unissued Income Notes by the above provisions will be given to such persons to the extent that their names and addresses are known to Jacksonville Gas Company.

It is further ordered, That the mechanics of consummating the Plan as outlined in Amendments No. 7, No. 8, and No. 9 to the Application of Jacksonville Gas Company, and as summarized below, including certain modifications of the Plan as heretofore approved by the Commission, be and the same are hereby approved:

1. A new corporation shall be organized under the laws of the State of Florida under the name of Jacksonville Gas Corporation, the certificate of incorporation of which shall be in the form of Exhibit Y (revised) annexed to Amendment No. 7 and the By-Laws of which shall be in the form of Exhibit Z (2nd revision) annexed to Amendment No. 8.

2. The initial Board of Directors and the initial officers of Jacksonville Gas Corporation shall be as follows:

Name and Office

C. B. Gamble, Jr., Director.
M. K. Patterson, Director and Vice President.
Alva F. Traver, Director and President.
Marshall S. Reeve, Director, Vice President, and Treasurer.
James P. Reilly, Director, Vice President, and Secretary.
E. M. Banon, Director.
W. A. J. Browne, Assistant Secretary and Assistant Treasurer.
W. Eckelkamp, Director, Assistant Secretary, and Assistant Treasurer.

3. Jacksonville Gas Corporation shall execute and deliver its First Mortgage and Deed of Trust in the form of Exhibit R (2nd revision) annexed to Amendment No. 8, and shall request the Trustee thereunder to authenticate $1,745,000 principal amount of First Mortgage Bonds, 5% Series due 1967. Said First Mortgage and Deed of Trust, together with instruments of release of Jacksonville Gas Company's First Mortgage Indenture dated June 1, 1912 and supplements thereto, shall be duly filed and recorded in appropriate State offices. Jacksonville Gas Company shall cause the First Mortgage Bonds of Jacksonville Gas Company held in its treasury to be cancelled.

4. Jacksonville Gas Company shall execute and deliver to Jacksonville Gas Corporation an appropriate instrument or instruments of conveyance and transfer whereby Jacksonville Gas Company shall transfer and convey all its property and assets (except the sum of $43,625) to Jacksonville Gas Corporation. Jacksonville Gas Corporation shall have the benefit of any and all warranties or other covenants contained in any instrument or instruments of transfer or conveyance in the chain of title pertaining to any of the properties or assets to be transferred to it as provided in the Plan. Jacksonville Gas Corporation shall have the same right to contest any unpaid taxes existing with respect to the property to be transferred to it as provided in the Plan as Jacksonville Gas Company would have had, had the transfers provided for by the Plan not taken place, and shall also have the right to contest any claims, demand or allowance payable by it or chargeable against the property to be transferred and conveyed to it pursuant to this order, existing and undetermined at the time of such transfer and conveyance, and may appeal from any decision relating to any of such matters. Jacksonville Gas Corporation shall (a) assume all the liabilities and obligations of Jacksonville Gas Company (other than the presently outstanding First Mortgage Bonds, Income Debentures and Income Notes of Jacksonville Gas Company), and (b) issue to or upon the order of Jacksonville Gas Company $1,745,000 principal amount of the First Mortgage Bonds of Jacksonville Gas Corporation, 5% Series due 1967 (due June 1, 1967) to be secured by its First Mortgage and Deed of Trust in the form of Exhibit R (2nd revision) annexed to Amendment No. 8 and not exceeding 36,448 shares of its common stock, par value $5 per share. The number of shares of Jacksonville Gas Corporation's common stock to be issued and delivered to the holders of Jacksonville Gas Company's First Mortgage Bonds, Income Debentures and Income Notes shall be reduced below 36,448 shares to the extent required by the payment of fractional claims in cash. Jacksonville Gas Corporation shall reserve for issuance to such persons as may be entitled to receive unissued Income Notes of Jacksonville Gas Company not exceeding 18 shares of its common stock, par value $5 per share. The number of shares of Jacksonville Gas Corporation's common stock to be reserved for issuance to those entitled to unissued Income Notes of Jacksonville Gas Company shall be reduced below 18 shares to the extent required by payment of fractional claims in cash.

5. Jacksonville Gas Company or Jacksonville Gas Corporation, or both, shall appoint an Exchange Agent to effect deliveries and payments under the Plan and (a) Jacksonville Gas Company shall deposit with such Exchange Agent the sum of $43,625, (b) Jacksonville Gas Corporation shall deposit with such Exchange Agent the amount required to be paid by reason of payment of fractional claims in cash, such amount being estimated by Jacksonville Gas Company not to exceed $3,000, (c) Jacksonville Gas Company or Jacksonville Gas Corporation, or both, shall cause the Trustee under the First Mortgage and Deed of Trust of Jacksonville Gas Corporation to deliver to the Exchange Agent (as requisitioned by the Exchange Agent) $1,745,000 principal amount of First Mortgage Bonds in appropriate denominations, (d) Jacksonville Gas Corporation shall cause the Transfer Agent and Registrar for the common stock of Jacksonville Gas Corporation to issue, register and deliver (as requisitioned by the Exchange Agent from time to time) certificates representing an aggregate of not exceeding 36,448 shares of Jacksonville Gas Corporation's common stock and (e) Jacksonville Gas Company or Jacksonville Gas Corporation, or both, will instruct the Exchange Agent to make payments and deliveries upon surrender to it of the presently outstanding First Mortgage Bonds, Income Debentures and Income Notes of Jacksonville Gas Company, on the following basis:

(A) For each $1,000 principal amount of First Mortgage Bonds of Jacksonville Gas Company, $500 principal amount of First Mortgage Bonds of Jacksonville Gas Corporation, 10 shares of common stock of Jacksonville Gas Corporation and $12.50 in cash;

(B) For each $1,000 principal amount of Income Debentures and Income Notes of Jacksonville Gas Company, one share of common stock of Jacksonville Gas Corporation, except that where the principal amount of any Income Debenture or Income Note is less than $1,000 or in excess of an even multiple of $1,000, the Exchange Agent will make payments of 1.5575 cents (to the nearest penny) for each dollar of such fractional principal amount.

6. The service contract between Jacksonville Gas Company and Public Utilities Management Corporation shall be amended so as to provide that it shall terminate automatically at the end of 60 days following the election of the definitive Board of Directors of Jacksonville Gas Corporation, to be elected pursuant to Article II, Section 2 of the proposed By-Laws (Exhibit Z (2nd Revision) annexed to Amendment No. 8).

It is further ordered, That the issues, transfers, exchanges and conveyances specified and itemized below are necessary and appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935:

(a) The issuance by Jacksonville Gas Corporation of $1,745,000 principal amount of its First Mortgage Bonds, 5% Series due 1967, said bonds to be exchanged for First Mortgage Sinking Fund Bonds of Jacksonville Gas Company in accordance with the Plan as modified.

(b) The issuance by Jacksonville Gas Corporation of not exceeding 36,448 shares of its common stock, said shares to be exchanged for First Mortgage Sinking Fund Bonds, Income Debentures and Income Notes of Jacksonville Gas Company in accordance with the Plan as modified.

(c) The issuance by Jacksonville Gas Corporation of not exceeding 18 additional shares of common stock, said shares to be exchanged for the claims against Jacksonville Gas Company of those persons entitled to its unissued Income Notes in accordance with the Plan as modified.

(d) The transfer by Jacksonville Gas Company to its own security holders of the right to receive said securities to be issued by Jacksonville Gas Corporation.

(e) The conveyance by Jacksonville Gas Company to Jacksonville Gas Corporation of all of the real property and interests in real property of Jacksonville Gas Company.

It is further ordered, That the Commission reserves jurisdiction with respect to the following matters: (1) with respect to any increase in fees and expenses over and above those already approved as part of the Plan; (2) with respect to the opening book entries in the books of account of Jacksonville Gas Corporation; and (3) with respect to such further amendments or modifications, if any, of the Plan as the District Court of the United States for the Southern District of Florida may refer to the Commission for consideration.

It is further ordered, That counsel for the Commission be and they are hereby authorized and directed to make application forthwith on behalf of the Commission to the District Court of the United States for the Southern District of Florida to enforce and carry out the terms and provisions of the modifications of the Plan hereby approved by the Commission, and to enter such further orders as may be necessary or appropriate in connection with the effectuation of and enforcement of compliance with the Plan as so modified, all pursuant to the provisions of section 11 (e) of the Public Utility Holding Company Act of 1935, the request duly filed herein by Jacksonville Gas Company, and the order of said Court entered and filed October 14, 1942 in the Matter of Jacksonville Gas Company, Court Docket No. 483–J–Civ.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 42-13051; Filed, December 9, 1942; 2:17 p. m.]

[File No. 70-626]

THE HOLBROOK LIGHT AND POWER COMPANY AND SOUTHWESTERN ICE COMPANY

ORDER PERMITTING DECLARATIONS TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission held at its office in the City of Philadelphia, Pennsylvania, on the 8th day of December, A. D. 1942.

The Holbrook Light and Power Company and Southwestern Ice Company, direct subsidiaries of Southwestern Public Service Company, a registered holding company, having filed declarations pursuant to section 12 (c) of the Public Utility Holding Company Act of 1935 and Rule U-46 (a), promulgated thereunder, regarding the following transactions:

The Holbrook Light and Power Company and the Southwestern Ice Company having sold their property and assets (except cash, accounts receivable, merchandise inventory and prepaid items) to the Town of Holbrook, Arizona, a municipal corporation, for the following amounts of cash respectively, $86,938.59 in the case of The Holbrook Light and Power Company, and $3,700.00 in the case of the Southwestern Ice Company, subject to certain adjustments, each proposes as rapidly as possible to pay to Southwestern Public Service Company as its sole stockholder (there being no securities of either company outstanding except Common Stock) a dividend or dividends in complete liquidation and to dissolve.

The Companies propose to convert into cash their remaining non-cash assets and out of such funds and the proceeds of such sales to pay all known liabilities other than accrued Federal taxes. Southwestern Public Service Company will assume all liabilities of the two companies after payment by them of all known liabilities as aforesaid, the liabilities so assumed consisting of accrued Federal taxes and consumers' deposits then unclaimed.

The Southwestern Public Service Company proposes in accordance with the provisions of the indenture securing its Serial Notes, to apply the amounts received from The Holbrook Light and Power Company and the Southwestern Ice Company as such liquidating dividends, to retire its outstanding Serial Notes by purchase or redemption.

Said declarations having been filed on November 10, 1942, and notice of said filing having been duly given in the form and manner prescribed in Rule U-23 promulgated pursuant to said Act, and the Commission not having received a request for a hearing with respect to said declarations within the period specified in said notice; or otherwise, and not having ordered a hearing thereon; and

The Commission finding that all applicable statutory requirements are met and deeming it appropriate in the public interest and in the interest of investors and consumers to permit said declarations to become effective;

It is hereby ordered, pursuant to Rule U-23 and the applicable provisions of said Act, and subject to the terms and conditions prescribed in Rule U-24 that the aforesaid declarations be, and hereby are, permitted to become effective forthwith.

By the Commission.

ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 42-13052; Filed, December 9, 1942; 2:17 p. m.]